International Labour Conference
90th Session 2002

Report V (2A)

Recording and notification of occupational accidents and diseases and ILO list of occupational diseases

International Labour Office Geneva

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Fifth item on the agenda

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LIST OF RECURRING ABBREVIATIONS

Argentina	UIA	Argentine Industrial Union
Australia	ACCI	Australian Chamber of Commerce and Industry
Barbados	BEC	Barbados Employers' Confederation
Belgium	CNT	National Labour Council
Brazil	CAN	National Confederation of Agriculture
	CNI	National Confederation of Industry
	CNF	National Confederation of Financial Institutions
	CNT	National Confederation of Transport
	CGT	General Confederation of Workers
	CUT	Single Central Organization of Workers
	FS	Força Sindical
	SDS	Social Democracy Union
	CONTAG	National Confederation of Agriculture Workers
Colombia	ANDI	National Association of Manufacturers
Croatia	IOM	Institute for Occupational Medicine
	NIPH	National Institute of Public Health
Cyprus	OEB	Cyprus Employers' and Industrialists' Federation
	CCCI	Cyprus Chamber of Commerce and Industry
Czech Republic	SPCR	Confederation of Industry of the Czech Republic
	OSPZV	Union of Agricultural and Food Workers
	CMKOS	Czech-Moravian Confederation of Trade Unions
	KZPS	Confederation of Employers' and Entrepreneurs' Unions
Denmark	DA	Danish Employers' Confederation
	FTF	Salaried Employees' and Civil Servants' Confederation
Egypt	FEI	Federation of Egyptian Industries

Ethiopia	CETU	Confederation of Ethiopian Trade Unions
Finland	SAK	Central Organization of Finnish Trade Unions
France	MEDEF	Movement of French Enterprises
	CGT-FO	General Confederation of Labour – Force Ouvrière
Gabon	CSG	Trade Union Congress of Gabon
Germany	BDA	Confederation of German Employers' Associations
	DGB	German Confederation of Trade Unions
Ghana	GEA	Ghana Employers' Association
Greece	ESEE	National Confederation of Hellenic Commerce
Honduras	COHEP	Honduras Council of Private Enterprise
Indonesia	APINDO	Employers' Association of Indonesia
Italy	CONFINDUSTRIA	General Confederation of Italian Industry
Japan	NIKKEIREN	Federation of Employers' Associations
Republic of Korea	FKTU	Federation of Korean Trade Unions
	KCTU	Korean Confederation of Trade Unions
	KEF	Korean Employers' Federation
Morocco	CGEM	General Confederation of Enterprises
Namibia	NEF	Namibia Employers' Federation
Netherlands	VNO-NCW	Confederation of Netherlands' Industry and Employers
Norway	NHO	Confederation of Norwegian Business and Industry
	LO	Norwegian Confederation of Trade Unions
	YS	Confederation of Vocational Unions
Pakistan	EFP	Employers' Federation of Pakistan
Poland	PKPP	Polish Confederation of Private Employers
	OPZZ	All-Poland Trade Union Alliance
Portugal	CAP	Confederation of Portuguese Farmers
	CCSP	Confederation of Trade and Services
	CIP	Confederation of Portuguese Industry
	CGTP-IN	General Confederation of Portuguese Workers

Singapore	NTUC	National Trade Union Congress
	SNEF	Singapore National Employers' Federation
Slovakia	CTU	Confederation of Trade Unions
South Africa	BSA	Business South Africa
Spain	CEOE	Spanish Employers' Confederation
	CEPYME	Confederation of Small and Medium-sized Enterprises
	UGT	General Workers' Union
Sri Lanka	LJEWU	Lanka Jathika Estate Workers' Union
Switzerland	UPS	Confederation of Swiss Employers
	USS	Swiss Federation of Trade Unions
Syrian Arab Republic	FTU	Federation of Trade Unions
United States	USCIB	United States Council for International Business

INTRODUCTION

At its 279th Session (November 2000) the Governing Body of the International Labour Office decided to place on the agenda of the 90th Session (2002) of the International Labour Conference an item on the recording and notification of occupational accidents and diseases, including the possible revision of the list of occupational diseases contained in Schedule I to the Employment Injury Benefits Convention, 1964 (No. 121). This would be with a view to standard setting under the single-discussion procedure. The Governing Body also indicated that the development of a mechanism for regularly updating the list of occupational diseases should be examined by the Conference as part of the agenda item.

In accordance with article 38, paragraph 1, of the Standing Orders of the Conference, which deals with the preparatory stages of the single-discussion procedure, the Office drew up a summary report[1] intended to serve as the basis for the discussion of this question. The report introduced the issue and analysed the law and practice in respect of the recording and notification of occupational accidents and diseases and the list of occupational diseases in various countries. The report, which contained a questionnaire, was communicated to the governments of the member States of the ILO, which were invited to send their replies so as to reach the Office by 30 September 2001.

At the time of drawing up this report, the Office had received replies from the governments of the following 75 member States:[2] Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Spain, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, Yugoslavia.

The governments of 39 member States (Argentina, Austria, Barbados, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Eritrea, Estonia, Ethiopia, Finland, Greece, Hungary, Italy, Lithuania, Malaysia, Mauritius, Namibia, Norway, Pakistan, Peru, Portugal, Qatar, Romania, Singapore, Slovakia, Suriname, Sweden, Switzerland, Syrian Arab Republic, Ukraine,

[1] ILO: *Recording and notification of occupational accidents and diseases and ILO list of occupational diseases*, Report V (1), International Labour Conference, 90th Session, 2002.

[2] Replies that arrived too late to be included in the report may be consulted by delegates at the Conference.

United Kingdom, Yugoslavia) stated that their replies had been drawn up after consultation with organizations of employers and workers. Some included in their replies the opinions expressed on certain points by these organizations, or referred to them, while other governments sent the observations from employers' and workers' organizations separately, without otherwise referring to them. In some cases replies were received directly from the employers' and workers' organizations.

To ensure that the English and French texts of the proposed Protocol to the Occupational Safety and Health Convention, 1981 and the proposed Recommendation concerning the list of occupational diseases and the recording and notification of occupational accidents and diseases are in the hands of governments within the time limit laid down in article 38, paragraph 2, of the Standing Orders of the Conference, these texts have been published in a separate volume, Report V (2B), that has been sent to them. The present volume, Report V (2A), which has been drawn up on the basis of the replies from governments and from employers' and workers' organizations, contains the essential points of their observations and brief Office commentaries.

REPLIES RECEIVED AND COMMENTARIES

This section contains the substance of the replies to the questionnaire contained in the first report. Each question is reproduced and followed by a list indicating the governments that replied to it, grouped in accordance with the replies (affirmative, negative or other). Where replies are accompanied by qualifying remarks or explanations, the substance of each observation is given, in alphabetical order of countries, after the abovementioned list. Where a reply deals with several questions, or refers to earlier questions, the substance of the reply is given under the first question and is only referred to in the other questions. The replies to each question are followed by brief Office commentaries.

Some governments replied indicating simply that the report proved a satisfactory basis for discussion, without giving answers to some or all of the specific questions. Such replies have been taken as affirmative or negative answers as seemed appropriate in the context of the questions.

Some replies gave information on national law and practice. Whilst most useful for the work of the Office, this information has not been reproduced unless it is necessary to an understanding of the reply.

Affirmative or negative replies from employers' and workers' organizations not accompanied by remarks are quoted only when they differ from the government's reply to the question, or where there has been no government response.

In reply to Question 2, some governments and employers' and workers' organizations expressed their preference for a Protocol or a Recommendation only, but nevertheless replied to subsequent questions relating to the contents of both a Protocol and a Recommendation; their observations should be understood accordingly.

General observations

Argentina. Internationally speaking, the quality of accident statistics could be definitely improved if the International Labour Office was to act as the coordinator and nexus among the various countries when adopting one or more international instruments on recording and notification of occupational accidents and diseases, together with a mechanism for updating the list of occupational diseases.

The Argentine Industrial Union (UIA) draws attention to the few ratifications of Conventions relating to safety and health which it believes is not due to lack of interest but the difficulty of adapting the singularities and standards of individual countries to international provisions. Great care is therefore required in drafting an effective standard that can be generally applied.

Austria. Like many other member States, Austria has not ratified the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Health Services Convention, 1985 (No. 161) or the Employment Injury Benefits Convention, 1964 (No. 121). The harmonization of data on occupational accidents and diseases in the member States is under consideration in

discussions currently taking place in Europe on future indicators for quality of work. Unfortunately, however, experience in Europe to date has shown that the harmonization of the statistics on occupational accidents and diseases is a very complicated task and therefore is currently impossible. Working groups at Eurostat have been examining this problem for a number of years.

Barbados. The Barbados Employers' Confederation (BEC) considers that the Office should prepare for a tripartite consultation on the list of occupational diseases prior to the 2002 session of the International Labour Conference. The present list was drawn up at an informal consultation in December 1991 at which no employer experts participated.

Belgium. The National Labour Council (CNT) positively endorses the ILO's dual objective, namely the strengthening of procedures for the recording and notification of occupational accidents and diseases and the periodic updating of the list of occupational diseases. The CNT considers that the initiative designed to strengthen the recording and notification procedures and to harmonize statistics relating to occupational accidents and diseases is very significant and forms part of a highly relevant dynamic approach. This initiative can only promote an increase in the number of notifications of occupational accidents and diseases and thus contribute to greater appreciation of the risks and therefore to an improvement in prevention strategies.

The CNT is also in favour of the proposal to update regularly the list of occupational diseases as long as it forms part of a reasoned, analytical approach and leaves the member States, in collaboration with their social partners – where their involvement is provided for, as is the case in Belgium – the necessary room for manoeuvre to conduct discussions on this subject at their level. Nevertheless, it wishes to be sure that the procedures to be put in place retain their coherence in terms of a guarantee of effectiveness and also in relation to a concern for balance between the gathering of statistical data and the administrative burden that this might entail for enterprises.

Czech Republic. The Confederation of Industry of the Czech Republic (SPCR) supports the adoption of an instrument regardless of its form. Such an instrument should provide for at least minimum standardization of criteria for occupational accidents and diseases in member States' statistics. Such a system should not increase the administrative and bureaucratic tasks of employers.

Denmark. Salaried Employees' and Civil Servants' Confederation (FTF): The severity of occupational injury/disease should be classified by the competent authorities on the basis of information on consequences, including medical, professional, social and financial consequences. The causes of the injury/disease should be classified by means of data concerning a person's exposure to hazards including hazardous substances to which the injury or disease is related and the consequences of such exposure. It is of decisive importance that there is an assessment of the seriousness of the injury or disease. It is important in this connection to bear in mind that many of the most serious injuries or accidents do not lead to absence from work due to sickness, cost for treatment or incapacity for work. A comprehensive system for recording occupational accidents notified by employers and work-related injuries or diseases notified by doctors would be an important source for identification of the consequences of a poor working environment.

Finland. The notification and recording of occupational accidents and diseases is an important way of promoting work safety and monitoring the implementation of occupational health and safety measures at workplaces. The ILO should have at its disposal an instrument regulating the notification and recording of occupational accidents and diseases. It would be useful to establish international, widely recognized uniform procedures for notification and recording and for the compilation of statistics.

It is crucial that when decisions and recommendations are made, in the ILO for instance, on required occupational safety measures to abolish or reduce occupational accidents and diseases, there is sufficient knowledge available on the trends of occupational accidents and occupational diseases and their occurrence both nationally and internationally.

Central Organization of Finnish Trade Unions (SAK): Provisions on the compilation of statistics should also require the authorities in charge of national statistics to produce more detailed, specific statistics by sector, company size and other variables. Statistics should always be based on actual accidents and occupational diseases and not only those indemnified by insurance companies.

Notification and recording principles should be expanded beyond occupational accidents and occupational diseases to cover work-related psychological and psychosomatic illnesses such as work-related stress which can lead to cardiovascular diseases or mental illnesses. The same applies to the health effects of work arrangements, such as working hours or methods, or other risks related to working life, such as violence or the threat thereof, or, for instance, repetitive work, which is the cause of a marked increase in the number of disabilities.

France. Movement of French Enterprises (MEDEF): Before considering the recording and notification systems for occupational accidents and diseases, the objective and the extent of application of these procedures need to be strictly defined. It is important, in particular, to define whether this implies establishing an inventory procedure for occupational risk that is appropriate to lead on to prevention measures involving the enterprise, the sector of activity, national or even international institutions, or whether this implies establishing a procedure for notifying accidents and illnesses likely to be attributed to work for compensation purposes in conditions fixed by national social security systems.

In this respect the report under consideration is somewhat ambiguous if we look at the answers recorded for France. For the notification of occupational accidents, there is reference to the employer being required by statute to notify the insurance institution (page 5 of Report V (1) et seq.). Page 9, on the other hand, states that "commuting accidents are not included in notifiable accidents in France ...". In fact, French employers are required to report commuting accidents to the insurance institution just as they are required to report occupational accidents. In the section on the notification of occupational diseases on page 10 of the report, it states that "in France it is the physician who is responsible for reporting cases of prescribed diseases or diseases or conditions which are suspected of being occupational in origin". In fact, it is the employee who is responsible for reporting occupational diseases to the insurance institution rather than the employer, who is responsible for reporting commuting and occupational accidents. These statements regarding compensation are distinct from those that require doctors to notify risks of occupational diseases in view of updating the national list of occupational diseases that are compensated.

Statements with regard to compensation and statistics for compensation set by insurance institutions for occupational accidents, commuting accidents and occupational diseases should be distinct from risk statistics that can be targeted by the nature of the risk and refer more broadly to accidents involving personal injury and accidents that cause purely material damage.

The above observations serve for the discussion of the updating of the list of occupational diseases. In fact, we cannot go down this road if we do not first define whether we are talking of supervising a list of diseases that are liable to be attributed to work or a list of diseases to be recognized as occupational diseases in the sense of the list annexed to Convention No. 121.

In the first case, the process should allow States to implement procedures for the notification of such diseases, leaving them the possibility to carry out the necessary medical and technical inquiries needed to include, or not, these diseases on their national lists of occupational diseases for which there is compensation. In the second case, this list should be incorporated in the national lists of occupational diseases for which there is compensation. The report and the questionnaire are ambiguous in this regard referring, on the one hand, to the 1996 ILO code of

practice on the recording and notification of occupational accidents and diseases and, on the other, to the Employment Injury Benefits Convention, 1964 (No. 121).

The list proposed for "occupational diseases" is very broad, listing all types of diseases with no precision as to the nature of these diseases and their appearance, and all kinds of toxic agents, with no indication of the conditions of occupational exposure. It is emphatically not acceptable as a model national list of occupational diseases.

Germany. In principle, Germany has an elaborate system for recording and notifying occupational accidents and occupational diseases within the framework of statutory accident insurance. Further rules result from the harmonization process within the European Union, which also comprises harmonization of data on occupational accidents and diseases. Statistics on occupational accidents and/or diseases are currently being compiled by the Statistical Office of the European Union (Eurostat) for that purpose.

Although the harmonization efforts of the ILO are welcomed on the whole, additional requirements concerning the recording and notification of occupational accidents and diseases within the framework of a harmonization process at the international level should be avoided for countries such as Germany for which, as stated above, other international harmonization rules already exist whose results are accessible to the ILO. It is impracticable and inefficient to attend to and maintain different systems for the national and/or EU level and international level. Rather, the object should be to achieve a universal and compatible system of statistics at the national level, at the level of the EU and at the level of the International Labour Office. The ILO's information needs could thus be met from sources which already exist. The database of Eurostat is a particularly obvious source in this context, where a start has already been made to bring about harmonization at least at the European level.

The terms "occupational accident", "commuting accident" and "occupational disease" have been standardized in Germany for the work of the statutory accidents insurance scheme. The terms "dangerous occurrence" and "incident", on the other hand, are not defined in German law. They lack terminological precision and it is to be feared that widely varying events/occurrences will be subsumed under these terms in the national notification systems. The terms "dangerous occurrence" and "incident" would therefore seem to be unsuitable for statistical recording and should not be the object of an ILO instrument. The three-day rule should be laid down in the ILO instrument as the "notification threshold" for occupational and/or commuting accidents, also in order to preclude a regulation on the notification of "occurrences" or "incidents" which have not resulted in any impairment of workers' health.

Confederation of German Employers' Associations (BDA): Comparable statistics on occupational accidents and diseases are a desirable objective for it has transpired repeatedly in the social debate that conclusions are drawn unduly from statistics which cannot be compared. The question of whether benefits in the event of damages, occupational accidents and/or occupational diseases are treated in a separate social security system or are treated in the same way as other diseases and accidents is crucial for the relevance of data. In the former case it generally depends on notification as the precondition for entitlement, which is relevant for the "completeness" of statistics.

Since employers in Germany already have to meet extensive notification requirements, there is no need to expand the content of this task. The extension of recording and notification to the grey area of "dangerous occurrences" and "incidents" is to be rejected at all events.

The questionnaire lacks clarity in places. If the member States opt for the form of a Recommendation it does not seem altogether reasonable also to comment on the content of a Protocol. We are setting out our comments below nevertheless, but only because several questions could not otherwise be answered properly. As a fundamental principle we only consider a Recommendation to be appropriate for this field.

Italy. Most of the replies to questions are in the affirmative since these are matters already addressed and substantially resolved in our country. Furthermore, it should be noted that such

events are recorded not merely for purely statistical purposes but prove valuable when comparing the preventive measures adopted by enterprises and the competent authorities in order to reduce occupational accidents and diseases.

In this respect, as far as Italy is concerned, there is no need to underscore the importance of prevention, since the social security system follows the strategy laid down in the Constitution. Indeed, the latest insurance provisions place workers' health at the centre of protection concerns, deeming it a primary benefit and advantage for the entire community.

Clearly, however, any instrument that can provide better, more recent and more accurate information about accidents, their causes, the working environment in which they arise, possible injurious events at work, and so on, would be highly useful for helping to correct risky work habits, and endowing the workplace with more advanced safety measures. In this way, recurrences can be avoided or at least their effects mitigated by comparison with the past.

The informative instruments discussed above will be valuable as they will form the only national or world data bank, computerized, of course. Once in place, they can be considered and correlated so that those interested and concerned (be they workers, enterprises, authorities or member States of the ILO) can access them in order to enhance their safety and prevention systems.

General Confederation of Italian Industry (CONFINDUSTRIA): The ILO report suffers from a number of gaps and inaccuracies that should be pointed out. When mentioning comparative data among countries, very often no reference is made to Italy (page 7 concerning notification of non-fatal occupational accidents, page 8 on how and when information is notified, and page 9 concerning the countries where commuting accidents are notifiable).

On page 15, it is erroneously stated that "in Italy, as a result of a decision in 1988 by the Constitutional Court, the list of occupational diseases is no longer operational"; whereas in fact the judgements of that Court (No. 179 and No. 206, of February 1988) introduced into the Italian legal order a mixed system. Under this system, in addition to the old listing system where there was a legal presumption that the origin of the diseases lay in occupational hazards, there is the possibility of having diseases deemed occupational that are not listed. In that case, the burden of proof is on the worker to show the causal link, or again if the list of diseases is used but the notification goes beyond the limits of the list definitions.

Chapter 2 presents as "new occupational diseases" situations that have been around for a long time and, indeed, have been studied, for instance, continuous repetitive movements, tobacco smoke pollution (passive smoking), stress, night work and rotating shift work.

Japan. Systems on the recording and notification of occupational accidents should be arranged in accordance with the social and economic factors and labour practices of each country, as the occurrence of such accidents mostly depends on social and economic factors such as the educational and technological level of domestic workers and the industrial structure.

Current systems on the recording and notification of occupational accidents in Japan function effectively and the reporting system for occupational accidents assists research. Provisions should be flexible and universal with sufficient attention paid to various domestic factors to enable many countries to adopt the document and to arrange recording and notification systems in accordance with the document despite national differences.

Federation of Employers' Associations (NIKKEIREN): There are significant differences among countries with regard to the actual circumstances surrounding the industrial structure, mode of work engaged in by workers, occurrences of work-related accidents and occupational diseases, occupational safety and health measures, and the like. It is therefore necessary to have an international instrument related to the "recording and notification of occupational accidents and diseases and ILO list of occupational diseases" with regulations of a flexible character that can allow a flexible response in accordance with the actual circumstances of each country.

Netherlands. According to the questionnaire the recording includes dangerous occurrences, incidents, commuting accidents, etc. The Netherlands Government does not agree to

include these additional aspects. The Netherlands Government can only agree with the recording/registration, recognition, etc., of occupational accidents and occupational diseases and the gathering of statistics relating to them.

Spain. Recording and notification procedures for occupational accidents and diseases should be linked to procedures for categorizing risks, which are incorporated in, or, as appropriate, associated with procedures for recognizing the right to social security benefits. Otherwise there would be a lack of coordination between notification and categorization procedures.

In Spain, occupational accidents and diseases are covered by social security and, consequently, the social security system is responsible for defining these concepts and determining in each specific case whether the circumstances exist for the concepts to be applied – in other words, for characterizing the common or occupational origin of the risks.

Sri Lanka. Lanka Jathika Estate Workers' Union (LJEWU): As far as the recording and notification of occupational accidents and diseases are concerned Sri Lanka is still at the stage of organizing the reporting and recording procedure. It has not, as far as the LJEWU is aware, ratified any of the ILO Conventions related to this subject.

Sweden. The ILO Committee notes that knowledge concerning work accidents and work-related illnesses is one of the most important preventive instruments. This makes it essential for rules on the recording and notification of occupational accidents and diseases and for the publication of national statistics to exist in all countries and to be as uniform as possible to facilitate comparisons. The Committee regards the creation of an international instrument for the recording and notification of occupational accidents and diseases as a matter of urgency.

The ILO list of occupational diseases, last updated in 1980, is paramount in the majority of countries. Although Sweden is one of the few countries applying a general work-injury concept, and thus applies the alternative indicated in Article 8(b) of Convention No. 121, the ILO Committee considers it essential that a mechanism be devised for continuously updating the list.

The form of the new instrument, i.e. the choice between a Protocol and/or Recommendation, should be decided according to an assessment of the alternative having the biggest international impact where these issues are concerned.

The ILO Committee notes the observation by the International Labour Office that a Protocol alone cannot accommodate the decision by the Governing Body, since a Protocol can only be attached to one Convention. Thus the International Labour Office presupposes a Protocol and an autonomous Recommendation, in which case the Recommendation would not only supplement the Protocol but, independently of the latter, could deal with questions relating to the recording and notification of, and compensation for, occupational accidents and diseases and could be linked both to the Protocol and to the list of occupational diseases appended to Convention No. 121.

The ILO Committee recalls the final provision of the three Protocols adopted during the 1990s (to Conventions Nos. 81, 89 and 147), whereby "a Member may ratify this Protocol at the same time as or at any time after it ratifies the principal Convention". This provision has a bearing on the impact which a Protocol can be expected to have over and above that of the Recommendation. The Committee notes that Convention No. 155 has been ratified by 36 members.

United Kingdom. A fundamental revision of the incident-reporting legislation is about to be undertaken. This is planned to commence in the first half of 2002 and will not be completed until 2004 at the earliest. It is therefore difficult to provide a considered response at this stage – thinking on the scope and content of the review is still at an early stage and it is impossible to predict how the final shape of any new or revised legislation might look. It would be useful to have an indication of the timescale for the ILO work in this area in order to consider how best to provide a constructive and timely input.

The questionnaire takes a prescriptive approach in many cases to an international instrument. If the ILO is to proceed, the development of any instrument will need to take account of the significant differences in national practice.

Office commentary

The general observations reveal a broad consensus of opinion as to the need for an international, widely recognized system for the recording and notification of occupational accidents and diseases. The information which can be provided by such a system is thought to be essential to a proper understanding of occupational hazards and, as a result, the development of prevention strategies and improvements in the working environment. The increasing availability of comparable statistics will encourage the exchange of knowledge, research and advice between member States.

There is mention of the need for reconciliation of recording and notification procedures which may have differing primary purposes, for example those associated with entitlement to social security and insurance benefits. Also referred to is the work on the harmonization of statistics being undertaken by the Statistical Office of the European Union (Eurostat) and which member States which are also members of the EU wish to be taken into account in the adoption of recording and notification procedures and the preparation of future ILO lists of occupational diseases. It is believed that such lists should have regard to work-related conditions of a psychological and psychosomatic nature which are not obviously occupational diseases, and to their medical, social and financial consequences. There is some discussion, which will emerge more fully in the answers to relevant questions, as to the recording and notification of dangerous occurrences, incidents and commuting accidents, about which national laws and practices vary.

I. Form of the international instrument(s)

Do you consider that the International Labour Conference should adopt an international instrument or instruments concerning the recording and notification of occupational accidents and occupational diseases, as well as a mechanism for updating the list of occupational diseases? **Qu. 1**

Total number of replies: 75.

Affirmative: 73. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Bulgaria, Burkina Faso, Brazil, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Suriname, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, Yugoslavia.

Other: 2. Spain, Switzerland.

Brazil. National Confederation of Industry (CNI), National Confederation of Financial Institutions (CNF), National Confederation of Transport (CNT): Yes. Except for the reference to a mechanism for updating the list of occupational diseases.

Chile. The instruments should be flexible so that the list of occupational diseases can be constantly and efficiently updated.

Cuba. The single instrument adopted should be sufficiently flexible so that all countries and enterprises might adopt it.

Ecuador. The adoption of an instrument that serves as a reference and guide, rather than an obligation, on how to carry out recording and possibly create mechanisms for the notification of occupational accidents and diseases.

Finland. It is important to revise the ILO Schedule I of occupational diseases at suitable intervals. With regard to revising national legislation on occupational diseases this should provide a useful tool.

France. General Confederation of Labour-Force Ouvrière (CGT-FO): Yes.

Ghana. Ghana Employers' Association (GEA): Yes.

Japan. NIKKEIREN: In establishing an international instrument it is necessary to have regulations with a flexible character that can allow a response in accordance with the actual circumstances of each country. In addition, updating the list of occupational diseases may become a factor in impeding the adoption and application of the said international instrument(s). Therefore, careful consideration is called for.

Mauritius. There is a need to respond to the growing demand for more analytical information about the cause of occupational accidents and injuries and to modernize the classification.

Morocco. General Confederation of Enterprises (CGEM): Yes.

Namibia. Namibia Employers' Federation (NEF): Yes. Information on occupational accidents and diseases is valuable for preventative planning and monitoring and evaluation purposes. Having the information available would contribute significantly to addressing problems relating to occupational accidents and diseases. It is, however, to be noted that the prescribed methods and procedures should be straightforward and simple so that very small employers in developing countries are able to participate in the compilation of reliable statistics.

Peru. Yes. To standardize the information available at the international level and to obtain highly reliable statistics that will allow the corresponding ratifications to be made.

Portugal. Enhancing the quality of life cannot be dissociated from development and, hence, the increasing validity of the concept of human development in which quality of life indicators are considered in conjunction with economic indicators. The promotion of occupational health and safety calls for global and integrated action, involving public authorities, employers and workers and their respective representative organizations, together with international organizations.

Confederation of Trade and Services (CCSP) and the Confederation of Portuguese Industry (CIP): No, national and international standards already exist, including Convention No. 155.

South Africa. Business South Africa (BSA): Great care should be taken to ensure that the new ILO instrument is sufficiently simple to ensure that very small employers in developing countries are able to participate in the building up of reliable statistics.

Spain. Of the ILO instruments cited in the report, Spain has ratified the Occupational Safety and Health Convention, 1981 (No. 155), but not the Employment Injury Benefits Convention, 1964 (No. 121).

Article 4 of the first of these instruments establishes the obligation for each Member, in the light of national conditions and practice, to formulate, implement and periodically review a coherent national policy on occupational safety and health; while Article 11(c), (d) and (e) envisage that guarantees shall be provided for the establishment of procedures for the notification of occupational accidents and diseases by employers or other designated bodies, inquiries shall be conducted thereon, and statistics prepared and published annually in such cases, as well as for other damage caused to health during work or in relation thereto. In principle, the proposed aims of the proposed future instrument appear to be achievable through greater development of the Articles cited.

Moreover, the European Union regulations on current occupational diseases are reflected in a Recommendation currently being revised and until the revision has been completed it will be difficult to respond to this point.

Confederation of Employers' Organizations (CEOE) and Confederation of Small and Medium-sized Enterprises (CEPYME): Yes.

General Workers' Union (UGT): Yes.

Sri Lanka. LJEWU: Yes.

Sweden. Reliable work injuries statistics are an important part of preventive work, environment management and of the evaluation of measures taken in various risk zones. International comparisons of work injuries statistics can yield vital information of great benefit to individual countries. This being so, it is reasonable that the ILO should work to bring about a system for the gathering of reliable work injury statistics.

A list of occupational diseases must not be static but must be continuously adapted to research and development in the field concerned.

Switzerland. We believe that, although it is necessary to reinforce safety and health at work, this can be implemented by a means other than a new formal international instrument, such as a Protocol to Convention No. 155 or a Recommendation. At this stage we consider that the questionnaire raises such precise and technical points that it would prove practically impossible to guarantee the implementation of all these aspects via national law once they were incorporated in a binding national instrument. To date, only 36 countries have ratified the Occupational Safety and Health Convention, 1981 (No. 155). The introduction of additional provisions that are technical and precise will not facilitate the ratification of this instrument, even with a Protocol or Recommendation added.

The recording and notification of occupational accidents and diseases, as well as a mechanism for updating the list of these diseases, might therefore be covered by the 1996 ILO code of practice on the recording and notification of occupational accidents and diseases, even if this entails revising it by seeking to give it a slightly more binding character. In view of the above, we have refrained from adopting a stance on the specific points of the questionnaire.

Confederation of Swiss Employers (UPS): Yes. It should be flexible so that it may be applied by the maximum number of countries.

Swiss Federation of Trade Unions (USS): Yes.

United States. United States Council for International Business (USCIB): Yes.

Office commentary

Almost all the replies to this question received from governments and employers' and workers' organizations were in the affirmative. The two governments and the two employers' organizations which responded otherwise did so not apparently in principle but because they believe that the subject can be dealt with adequately under existing instruments. They refer specifically to the Occupational Safety and Health

Convention, 1981 (No. 155), and the 1996 ILO code of practice. While in favour of the adoption of new instruments, some responses appear to suggest that these should be limited to the recording and notification of occupational accidents and diseases. There was general emphasis on the need for regular updating of the list of occupational diseases so as to reflect continuing research and development. Echoing comments to be found in the general observations, there was reference to the value of reliable work injuries statistics in building vital information about the cause of occupational accidents and diseases, and to the benefits to individual countries to be gained by the international comparison of such statistics.

In view of the overwhelming affirmative response to this question the Office proposes the adoption of new instruments as set out in draft in Report V (2B).

Qu. 2 *If so, do you consider that the instrument(s) should take the form of:*

(a) a Protocol to the Occupational Safety and Health Convention, 1981, and an autonomous Recommendation?

(b) a Recommendation alone?

(c) a Protocol alone?

Total number of replies: 75.

Affirmative to clause (a): 56. Austria, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Croatia, Cyprus, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Affirmative to clause (b): 9. Argentina, Bahrain, Ecuador, Germany, Greece, Japan, Spain, Syrian Arab Republic, United Kingdom.

Affirmative to clause (c): 6. Cuba, Republic of Moldova, Pakistan, Qatar, Singapore, Suriname.

Other: 4. Australia, Czech Republic, Costa Rica, Switzerland.

Argentina. UIA: Supports (c).

Barbados. BEC: Supports (b).

Belgium. The workers' organization considers that the instruments should take the form of a Protocol and an autonomous Recommendation, which might open the way for a progressive adaptation of the list of occupational diseases. Whilst not formally opposed to the possible adoption of a Recommendation in addition to a Protocol, the employers' organizations have

reservations regarding the degree of feasibility of the procedures that a Recommendation proposes to initiate and about the analysis of costs that would be incurred by the updating of the list of occupational diseases by experts.

Brazil. Single Central Organization of Workers (CUT), Força Sindical (FS), General Confederation of Workers (CGT), Social Democracy Union (SDS): support (a); National Confederation of Agriculture (CNA): supports (b); CNI, CNF, CNT: support (c).

Bulgaria. The workers' organization considers that the most appropriate instrument is a Recommendation.

Colombia. National Association of Manufacturers (ANDI): Supports (b).

Costa Rica. A Recommendation or Protocol independent of the 1981 Convention.

Cyprus. Cyprus Employers' and Industrialists' Federation (OEB) and the Cyprus Chamber of Commerce and Industry (CCCI): Support (b).

Czech Republic. Union of Agricultural and Food Workers (OSPZV): Supports (c); Czech-Moravian Confederation of Trade Unions (CMKOS): supports (a); Confederation of Employers' and Entrepreneurs' Unions (KZPS): supports (b).

Ecuador. This should take the form of a Recommendation as there are a number of ILO Conventions that encompass recording and notification, and these are complemented by other Conventions that support the procedures and obligations thereto.

Egypt. Federation of Egyptian Industries (FEI): Supports (b).

Finland. The employers' organizations support (b).

SAK: Supports (a) and comments that in practice several countries have already adopted nationally binding regulations which the ILO decisions would now harmonize.

France. CGT-FO: The advantage of a Protocol is that it imposes more obligations on the States than the Recommendation. The Recommendation provides the necessary flexibility for the permanent evolution of the list of occupational diseases, as well as the possibility of better developing the subject.

The persistence of the wide differences still evident in the coverage of statistics and classifications and concepts used (page 12 of Report V (1)) implies that the discussion should be confined, at this early stage, to a simple Recommendation with the aim of reducing the differences between national policies.

Ghana. GEA: Supports (b).

Germany. A Protocol to the Occupational Safety and Health Convention, 1981 (No. 155), and an autonomous Recommendation (clause (a)) could only be ratified by Germany if they did not give rise to any additional requirements pertaining to the recording and notification of occupational accidents and diseases which go beyond the regulations existing in Germany. From the German point of view, the adoption of a Recommendation (clause (b)) is thus considered sufficient.

German Confederation of Trade Unions (DGB): Supports (a).

Greece. National Confederation of Hellenic Commerce (ESEE): Supports (b).

Honduras. Honduras Council of Private Enterprise (COHEP): (b) Because a Protocol could provide detrimental for relations between employers and workers in the immediate future.

Italy. CONFINDUSTRIA: Supports (c).

Jamaica. (a) The Protocol and autonomous Recommendation may be used to simplify the reviewing and updating procedures of Convention No. 121.

Japan. NIKKEIREN: Supports (b).

Mauritius. The Protocol would supplement Convention No. 155 which calls on ratifying member States to establish and apply procedures for the notification and publication of occupational accidents and diseases. The new Recommendation would, for its part, lay down basic principles and help member States to achieve progress in the field without the need to comply with all the obligations put on them by a ratified instrument.

Morocco. CGEM: (c).

Namibia. NEF: (b) Considering the low number of ratifications of this Convention, the development of a Protocol would be a waste of time. An autonomous Recommendation would ensure the necessary flexibility and freedom that would result in the largest number of countries being prepared to and actually gathering the required statistics.

Netherlands. Confederation of Netherlands' Industry and Employers (VNO-NCW): (b) The question is rather misleading because it is not possible to adopt a Protocol alone. A Protocol is a binding instrument aimed at supplementing a Convention – in this case Convention No. 155 – and cannot be ratified independently of the Convention. As only 36 member States out of 175 have ratified this Convention, it would be preferable to adopt a Recommendation.

New Zealand. Convention No. 155 should specify the requirements for reporting in more detail than is presently provided. An autonomous Recommendation would provide a flexible means of renewing the list of occupational diseases.

Norway. Confederation of Norwegian Business and Industry (NHO): Supports (b).

Singapore. National Trade Union Congress (NTUC): (a).

South Africa. The Recommendation should not be autonomous as it will hamper application.

BSA: (b) An autonomous Recommendation would ensure the necessary flexibility and freedom that would result in the largest number of countries being prepared to and actually gathering the statistics required to build a global picture. Considering the low number of ratifications of Convention No. 155 the development of a Protocol would be a waste of time.

Spain. The current status of our substantive law, within which the Occupational Safety and Health Convention, 1981 (No. 155), is in force, would lead us to indicate that response 2(c) is the most appropriate, but, in our opinion, the extension and the content suggested in a number of questions in the questionnaire are not acceptable. We have therefore settled on response 2(b) which as a whole causes fewer problems, i.e. a Recommendation alone.

UGT: (a).

Sri Lanka. LJEWU: (a).

Sweden. Employers' organizations: In order for a Protocol to have any effects, it has to be ratified by the Members of the ILO. We do not expect this to happen to any notable extent, because work injury statistics are primarily constructed with reference to national needs. A Recommendation has the best prospects of actually influencing the framing of work injury statistics in member countries and facilitating comparability between them.

Switzerland. UPS: Supports (b). There is little point to a Protocol as Convention No. 155 has had little success.

USS: Supports (a).

Syrian Arab Republic. (b) The Recommendation would allow Members to adopt a special scheme to record occupational accidents and diseases in a manner compatible with standards adopted at the national level, which may be compatible with Conventions ratified by the Syrian

Arab Republic, on the one hand, and with legal concepts of occupational accidents in accordance with the Social Insurance Act and the national adopted list of occupational diseases.

Federation of Trade Unions (FTU): The instrument should take the form of a Convention or a Recommendation.

United Kingdom. (b) The Health and Safety Executive is unable to support the adoption of binding instruments – it is unable to support an approach that would specify particular approaches, as these may vary according to national custom and practice. There is little need for international harmonization of data collection when the primary purpose of collecting the data is the prevention of harm at a national level.

United States. USCIB: A Recommendation alone is the only appropriate instrument. Just one-fifth of the ILO membership has ratified the Occupational Safety and Health Convention, 1981 (No. 155). Consequently, a Protocol would only have a limited effect because, in order to ratify the Protocol, 80 per cent of the ILO membership would need to ratify Convention No. 155 first. A Recommendation, on the other hand, would have immediate advisory effect.

Office commentary

A significant majority of responses favour both a Protocol to the Occupational Safety and Health Convention, 1981 (No. 155), and an autonomous Recommendation. A Protocol imposing binding obligations is seen as creating greater certainty as to the recording and notification procedure required by Article 11, subparagraph (c), of Convention No. 155 at national level, and through the publication of information under subparagraph (e) facilitating comparative analyses at the international level to assist in devising preventive strategies. Unlike the Protocol, the autonomous Recommendation proposed can relate to Conventions other than Convention No. 155, in particular the Employment Injury Benefits Convention, 1964 (No. 121), which in Schedule I contains a list of occupational diseases, and so an autonomous Recommendation could provide the flexible updating mechanism sought by the Governing Body for the revision of the list of occupational diseases in future.

The support for a Recommendation alone from some member States and substantially from employers' organizations, relies upon the greater flexibility and freedom a Recommendation is seen as providing in accommodating national customs and practice. Attention is drawn to what is regarded as relatively few ratifications of Convention No. 155 and the inability of member States to ratify a Protocol independently without first ratifying the Convention it supports.

Those responses which support a Protocol alone do not discuss how this would satisfy the intention of the Governing Body regularly to update the list of occupational diseases in addition to standard setting for the recording and notification of occupational accidents and diseases.

Reflecting the substantial majority of replies in favour of a Protocol and an autonomous Recommendation the Office has drafted the proposed text accordingly.

II. Content of a Protocol

Should the Protocol contain a preamble referring to subparagraphs (c) and (e) of Article 11 of the Occupational Safety and Health Convention, 1981? **Qu. 3**

Total number of replies: 67.

Affirmative: 64. Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Croatia, Cuba, Cyprus, Denmark, Egypt, Equatorial Guinea, Estonia, Ethiopia, France, Gabon, Germany, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Czech Republic, Spain.

Other: 1. Finland.

Brazil. CAN, CUT, FS, CGT, SDS, National Confederation of Agriculture Workers (CONTAG): Yes.

CNI, CNF, CNT: No. Since many countries have either no prevention policies or a plethora of them.

Bulgaria. The preamble should also include a reference to subparagraph (d) of Article 11.

Chile. This section should also mention that those countries which already have more than one competent authority should so organize that the information gathered is contained in a centralized national register. Then one of those bodies would become responsible for the register, and others could feed their information into it.

Czech Republic. Unnecessary. The several workers' organizations replied in the affirmative.

Finland. The proposed reference in the preamble is not necessary, but it is agreed that a reference to Article 11, subparagraphs (e) and (e), of Convention No. 155 could be made in a preamble.

France. CGT-FO: Yes.

Germany. Yes. However, the objective of the Protocol should be set out in detail since the reference to Article 11(e) and (e) is too vague.

Greece. ESEE: Yes.

Italy. It is always useful to refer to previous ILO Conventions, and particularly to subparagraphs (e) and (e) of Convention No. 155.

Japan. NIKKEIREN: No.

Namibia. NEF: Yes. Serious consideration should be given to the inclusion of a reference to the relevant section of the Safety and Health in Mines Convention, 1995 (No. 176).

Netherlands. VNO-NCW: Yes.

Portugal. Yes. The Protocol should emphasize the importance for the national practices of each State of having a coherent occupational safety and health policy. Mention should be made of the guiding policies of Convention No. 155 in regard to the safety and health of workers. Overall the social partners agree.

Romania. The preamble should also refer to the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

South Africa. BSA: Serious consideration should be given to the inclusion of a reference to the relevant section in the Safety and Health in Mines Convention, 1995 (No. 176).

Spain. UGT: Yes.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: No.
USS: Yes.

United States. USCIB: Yes, in a Recommendation.

Office commentary

As previously mentioned, some governments and organizations which supported only a Recommendation did not reply to Part II of the questionnaire. Those which did asked that their replies be read accordingly.

All but three governments were in the affirmative. Those in the negative gave as reasons only that a preamble was unnecessary and that many countries were either without prevention policies or had a plethora of them.

There were proposals that other Conventions concerning safety and health in specific industries should be referred to. However, such instruments do not refer directly to the recording and notification of accidents and diseases and the more recent, for example the Safety and Health in Agriculture Convention, 2001 (No. 184), make reference in the preamble to Convention No. 155.

In view of the majority support for it, the provision appears in the proposed Protocol.

Should the preamble have regard to the need to strengthen recording and notification procedures for occupational accidents and occupational diseases with the aim of identifying their causes and establishing preventive measures, and of promoting the harmonization of recording and notification systems? **Qu. 4**

Total number of replies: 68.

Affirmative: 67. Australia, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Equatorial Guinea, Estonia, Ethiopia, Finland, France, Gabon, Germany, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Spain, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 1. Austria.

Austria. The preamble should not have regard to promoting the harmonization of recording and notification systems as, although international harmonization is desirable, it is not really feasible. This matter should be discussed in the Recommendation.

Brazil: CNA, CUT, FS, CGT, SDS, CONTAG: Yes.
CNI, CNF, CNT: No, because of the answer to Question 3.

Burkina Faso. Recording procedures should not be made more cumbersome.

Chile. A national notification system for occupational accidents must have local and national objectives included and these must be stipulated in the preamble. Local objectives include the inspection of workplaces. Intervention programmes can focus on enterprises and/or production sectors with genuinely higher risks.

Croatia. Institute for Occupational Medicine (IOM): The recording and notification of occupational accidents and diseases is not only simple enumerating. The principal aim of that procedure is an implementation of the safety measures with a view to improving safety at work and to prevent occupational health damage.

Czech Republic. KZPS: It is not clear what "need to strengthen recording and notification procedures" means. Increasing administration does not automatically meet the intention.

Denmark. Anything else will only be a matter of useless annual reports.

France. CGT-FO: Yes, although in certain countries the problem lies more in the disregard of existing procedures than the absence of a procedure.

Germany. Harmonization of recording and notification systems will probably only be possible if comparable systems exist and/or are built up accordingly. The preamble should therefore go into the different recording systems and the resulting specificities (coverage of recording systems, extent of reporting) and should point out that the data from the various recording systems are not comparable.

Greece. ESEE: Yes.

Japan. NIKKEIREN: The phrase "the need to strengthen" should be changed to "the need to promote".

Kenya. The information will subsequently be used for planning and preventive measures.

Namibia. NEF: Yes, as this is the purpose of the whole debate. It is however suggested that great care be taken to ensure that the limited resources available in some countries, particularly in the developing world, are recognized and taken into account so as to ensure that the instrument developed does produce the desired results.

Netherlands. VNO-NCW: Yes.

Norway. Yes, but add a reference to work-related diseases.

Portugal. CIP: Doubts the need for such emphasis since it foresees problems in harmonizing systems for the recording and notification of occupational accidents and occupational diseases.

Sri Lanka. LJEWU: Yes, this would be necessary.

Switzerland. UPS: Yes.
USS: Yes.

United States. USCIB: Yes, in a Recommendation.

Office commentary

Whilst there are responses to the question which suggest amendments to the preamble to clarify or extend the objectives of the Protocol, or which raise doubts as to the practicability of harmonizing recording and notification procedures, there remains a very substantial majority in favour of the question as it is expressed. The Office has had regard to this in the proposed Protocol.

Scope

Question 5

The scale and nature of the replies to Question 5 are such that the Office has, for the purposes of Report V (2A), treated each part of the question separately. It is believed that separate treatment of the distinct issues arising under each part of the question will lead to a better understanding.

For the purposes of the Protocol should: **Qu. 5(a)**

(a) the term "occupational accident" cover an occurrence arising out of, or in the course of, work which results in:

(i) fatal occupational injury; or

(ii) non-fatal occupational injury?

Total number of replies: 65.

Affirmative to (a): 62. Australia, Austria, Bahrain, Belarus, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 1. Spain.

Other: 2. Germany, Portugal.

Australia. The State of Victoria notes that the Victorian health and safety regulatory regime refers to "incidents" rather than "accidents". As a matter of policy, all incidents are viewed as preventable. The word "accident" on the other hand implies that some events are unavoidable. In Victoria, the word "incident" is defined under the Occupational Health and Safety (Incident Notification) Regulations 1997 and means any accident (fatal or non-fatal occupational injury) or dangerous occurrence.

Austria. In national law the term "occupational accident" includes, inter alia, injuries resulting from altruistic activities.

Bulgaria. In the term "arising out of, or in the course of, work", the conjunction "or" should be replaced by "and" because it is possible for the accident to be in the course of work but for it to have no relation to work for which the injured person is employed. Accidents which have arisen in conjunction with work which is in the interest of the enterprise should be covered. It is important that the injury has arisen suddenly to make clear the difference between occupational accidents and disease.

Canada. The term "occupational injury" should be defined to clarify that occupational injury can be either an injury or a disease.

Chile. (ii) Consideration should be given to the loss of at least one working day to distinguish non-fatal injuries from incidents.

Cyprus. (ii) Provided that such injury disables the worker for more than three days from earning full wages at the work at which he was employed at the time of such accidents.

Czech Republic. OSPZV: No.

Denmark. The term "occupational accident" should cover an occurrence in the course of work or a sudden unintended event occurring out of or in the course of work, which results in fatal or non-fatal injury.

Estonia. The term "occupational accidents" should be internationally comprehensible for employers, workers and governments.
(i) and (ii) The term "occupational accident" should be an accident which takes place in a working process. It is not important whether it is fatal or non-fatal.

France. CGT-FO: The term "occupational accident" should cover any accident arising out of, or in the course of, work which results in physical or mental suffering, fatal or not.

Germany. According to German law, an "occupational accident" is an occurrence in which an insured person suffers an accident "as the result of an insured activity", i.e. there has to be a causal connection between the accident and the insured activity. The proposed formulations "arising out of work" or "in the course of work" are definitely narrower in comparison. In (a)(i) and (ii) the word "occupational" should be replaced with "work-related".
An "accident" should be defined as "an occurrence which is limited in time and influences the body externally and which has caused injury to health or death".
Confederation of German Employers' Associations (BDA): Both, but in the case of non-fatal injury the accidents must involve at least three days' incapacity for work.
DGB: Clauses (i) and (ii) should read "work-related" rather than "occupational".

Greece. ESEE: (ii) Yes, but add the word "serious" before "non-fatal".

India. The definition of occupational accident should include poisoning.

Italy. The cause and the work occasion should be identified.

Jamaica. The use of agreed common terms would provide international standards for the comparison of national statistics.

Japan. NIKKEIREN: The definition of an occupational accident is given as "an occurrence arising out of, or in the course of, work". However, as the definition of the term varies from country to country, the wording should be "Each Member shall prescribe a definition of 'industrial accident' in accordance with its laws and regulations", as stated in Article 7 of Convention No. 121.

Kenya. An additional clause should be added to the Protocol: "(iii) damage to or loss of property".

Republic of Korea. Korean Employers' Federation (KEF): Yes to (i).

Lebanon. Yes. If "in the course of" does not include accidents that occur as a result of the work or on the occasion of the work, the definition should be extended.

Malta. The term "occupational accident" should also cover incidents in which no injuries occur, such as near misses and property damage.

Morocco. CGEM: Yes.

Netherlands. (i) and (ii) Both fatal and non-fatal occupational injuries should be included. One might, though, consider a differentiation in the degree of severity of the injury in terms of medical attendance or number of days of disability to work.
VNO-NCW: Only non-fatal occupational injury.

New Zealand. The distinction between fatal and non-fatal injury is a useful one to make, and the inclusion of both in the definition is appropriate. But the use of the term "occupational accident" is more problematic. "Accident" suggests chance, and this is no longer a suitable mental "hook" to use when thinking about accidents. However, given that the Convention at present uses the term it should be retained, until it is revised.

Poland. Polish Confederation of Private Employers (PKPP): Yes.
All-Poland Trade Union Alliance (OPZZ): Yes, without mutual exclusivity.

Russian Federation. Yes, but refer to the period of incapacity arising from the accident; one day is suggested.

Slovakia. Confederation of Trade Unions (CTU): An "occupational accident" should be defined as "the damage to health sustained by an employee while discharging his/her work tasks or in direct relation to them, independent of his/her will, by short-term, sudden and forceful effects of external influences".

South Africa. Substitute "and" for "or".

Spain. In national legislation (listed) notification models are established and instructions laid down for their implementation. The definition of occupational accident is not acceptable as it does not refer to external factors.
UGT: The concept of occupational accident must encompass those which cause both fatal and non-fatal injuries.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: Yes, within the meaning of the federal law on accident insurance.
USS: Yes.

United States. USCIB: Yes, as to both fatal and non-fatal occupational injuries. The injuries encompassed by this instrument are those resulting from "accidents". As such, the Recommendation does not include ergonomics and other injuries that are not the result of accidents.

Yugoslavia. The term "injury at work" should cover all injuries at work, whether resulting in death or not, and these lethal injuries should be dealt with separately.

Office commentary

Of those countries which replied to this question, which is concerned only with the scope of the proposed instruments, there is virtual unanimity in the affirmative

response to what is the substance of the question. Comment was confined to specific issues, proposing some qualification of the wording.

Some issues raised, for example whether the scope of non-fatal accidents should be specified in terms of seriousness, or the number of days' absence from work, are thought to be better dealt with under subsequent questions relating to recording and notification. Similarly, those which refer to events which injure property, rather than the person, are discussed as dangerous occurrences or incidents. Convention No. 121, referred to in one response, is limited to accidents attracting benefits.

Two responses suggest the replacement of the conjunction "or" with "and"; however, the former is believed by the Office to make it sufficiently clear that both types of injury are covered.

There is reference to the need for an accident to be caused by a sudden event. The term "accident" has been used frequently in previous instruments without definition and it appears to have been well understood.

The term "occupational accident" is without qualification as to its nature, cause or seriousness; it is specified only that it should arise out of, or in the course of, work. This is thought to cover the point raised by the Government of India and, similarly, that by the Government of Spain, although it is not clear what is intended by reference to external factors. This part of the question appears as Article 1(a) of the proposed Protocol.

Qu. 5(b) *For the purposes of the Protocol should:*

(b) the term "occupational disease" cover a disease contracted as a result of an exposure to risk factors arising from work activity?

Total number of replies: 66.

Affirmative to (b): 59. Australia, Bahrain, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, New Zealand, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 3. Austria, Netherlands, Spain.

Other: 4. Germany, Hungary, Norway, Portugal.

Australia. The proposed definition of occupational disease may be too narrow in its current form. No provision exists for work activities to have an effect on "occupational disease" covering diseases contracted as a result of an exposure to risk factors arising from work activity or the recurrence, aggravation, acceleration, exacerbation or deterioration in a person of an existing disease, as a result of an exposure to risk factors arising from work activity. It is suggested that the definition of "occupational disease" include these factors.

Austria. The definition of the term "occupational disease" should be modified to correspond to national legislation and practice in order to make it easier to ratify the Protocol. In many States occupational disease is defined on an individual basis and not under a general clause. For example, the definition of the term "occupational disease" is broader than that used in Austria's national law, under which not every occupational illness is an occupational disease. In Austria, occupational disease is not defined under a general clause but by means of an extensive list of occupational illnesses. In addition, it is possible to declare as an occupational disease any illness which has arisen exclusively and predominantly as a result of exposure to harmful substances or radiation at work.

Brazil. Yes, but substitute "arising from" with "present at".

CNI: Substitute "inherent risk" for the risk factors arising from work activity.

Bulgaria. Any aggravation and later consequences of the occupational disease should be related to it.

Chile. Risk factors should be considered rather than conventional risk agents. This makes it possible to incorporate ergonomic and psychological aspects into the causation of occupational ill health.

China. The legal definition of the Occupational Diseases Prevention Law is recommended, i.e. "For the purposes of this Law, the term 'occupational disease' means a disease contracted as a result of exposure to dust, radioactive substance(s), other hazardous substance(s), etc. by labourers of enterprises, institutions and private economic organizations (hereafter referred to as employing units) during their occupational activities".

Finland. Yes, but first and foremost, it should be made clear what is meant by "exposure to risk factors" here.

France. CGT-FO: The term "occupational diseases" should cover any illness contracted as a result of exposure to a risk arising from work activity.

Germany. An "occupational disease" is a disease which the insured person suffers as the result of an insured activity and which can be recognized under national law as an indemnifiable damage.

BDA: A risk factor must be involved which affects the worker to a considerably greater extent than the rest of the population, and a disease must be involved which is caused by special effects.

DGB: An additional definition should be included between points (b) and (c): "the term 'work-related disease' covers a disease which is also the result of the effect of risk factors which arise from the work activity but are not included in the list of occupational diseases".

Greece. ESEE: Yes.

Hungary. Instead of "arising from work activity" we suggest "arising from work activities or work environment" as in clause 2.3.1 of Appendix IV to Report V (1).

Israel. We are of the opinion that the list of occupational diseases has to link the disease with an agent at the workplace which is known to be a potential cause of the disease. This is particularly relevant as far as occupational cancers are concerned, so as to avoid the impression that any cancer could or should be recognized or acknowledged as being due to exposure to a cancerous agent.

We therefore propose that there should be a preamble to the whole list (and not only occurring in specific paragraphs) as follows:

> The diseases are recognized when a direct link between the exposure of a worker to an agent and the disease suffered is established, or when established in national legislation.

Italy. The work cause should be identified and must be direct and effective and such as to produce the disease solely or mainly.

Lebanon. Add the term "or because of the work activity" at the end of the clause, for the occupational disease might attack the person exposed to risk factors arising from work activity because of his work, but that should include any other person who could be affected by these factors without having executed that activity directly.

Mexico. Yes. It should cover any pathological condition resulting from the continuing action of a factor arising from work or in the environment in which the worker is obliged to work.

Netherlands. No. The definition of "occupational disease" as it is represented in the questionnaire is not acceptable to the Netherlands Government. The definition should be reformulated as follows: "an occupational disease is a disease which, in accordance with current medical knowledge, is caused by the impact of specific working conditions and occurs more often to workers in certain professions when compared to other workers or non-workers."

Norway. The term "occupational disease" should cover a disease accepted by the ILO and/or national authority as being contracted as a result of an exposure to risk factors arising from work activity. In addition, the term "work-related disorder" should be defined to cover a disease or a symptom contracted or aggravated as a result of an exposure to risk factors arising from work activity. The term "occupational disease" should cover both what is encompassed by the term "occupational diseases" and what may be called "work-related disorders".

Norwegian Confederation of Trade Unions (LO) and the Confederation of Vocational Unions (YS): The term "occupational disease" should cover work-related disorders.

Portugal. As in other countries, Portuguese legislation is open and provides for the recognition of occupational diseases which are not explicitly listed in any legal instrument, such as a list of occupational diseases.

Under the Portuguese system, occupational diseases are considered to be those on the list in question, in addition to injuries, functional disturbances or diseases which are not on the list, provided that they are the necessary and direct result of the activity in which workers engage and are not the normal wear to which the body is subject. The social partners consider it to be essential clearly to define the concept to be used in the Protocol.

CIP: The terms included in the questionnaire are not very precise, notably in connection with occupational accidents which are not connected with the place of work or with loss of earning capacity or the capacity for work; the definition of occupational disease does not refer to the necessity of the injury, disorder or disease being a necessary and direct consequence of the activity in question.

Russian Federation. Yes. Consider referring also to other illnesses, e.g. physical or mental stress, arising from work activities.

Singapore. Yes, but it should also include work-aggravated disease.

South Africa. BSA: Yes, in principle, but amend the wording of the term "occupational disease" to cover exposure arising out of or in the course of work which results in a disease.

Spain. See comment on Question 5(a). For the same reason, the definition of occupational disease is not acceptable as, in addition to not referring to external factors, it does not take account of the activities or forms of employment in which such a disease may be reported, as established by national legislation.

UGT: Yes, occupational disease should cover all those diseases contracted by the workers in the course of or as a result of work activity.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: It would be better to employ the formula used in article 9 of the LAA (federal insurance law) which speaks of "diseases due exclusively or mainly to particular harmful substances or to particular tasks, in the exercise of occupational activity".

USS: Yes.

United Arab Emirates. Yes. Reference should be made here to the present list of occupational diseases or to the list that will be adopted during the 90th Session of the International Labour Conference in 2002.

United States. USCIB: Yes, in a Recommendation. But the term "occupational disease" needs to be further defined. For example, in the United States, several states consider ergonomic and mental stress claims to be occupational illnesses, which are not occupational diseases.

Yugoslavia. The term "occupational diseases" and the disabilities resulting from them should be determined more specifically.

Office commentary

Whilst there are proposals to extend or to restrict the meaning of the term "occupational diseases", and to alter subsidiary words such as exposure to risk factors, the affirmative answers to the question form a substantial majority.

The question of exacerbation of an existing disease by exposure to risk factors arising from a work activity, as mentioned by the Government of Australia, is thought to broaden the term "occupational disease" beyond the parameters used in previous instruments, e.g. Convention No. 121 of 1964, and attention is drawn to the recording and notification of suspected cases of occupational diseases in Question 6.

The use of the word "cover", which is without a sense of exclusivity, is thought by the Office to meet the objections of those countries which would prefer a direct reference in the question to national lists, often those associated with insurance cover.

It is similarly thought that the reference to exposure to risk factors cannot usefully be enlarged, or qualified, without mention of the various sources or origins of occupational diseases, which would be inappropriate for a short question. The term is not, however, limited to those who contract diseases while engaged directly in a work process, about which the Government of Lebanon is concerned.

The wording of the term has been left unchanged as Article 1(b) in the proposed Protocol.

For the purposes of the Protocol should: **Qu. 5(c)**

(c) the term "dangerous occurrence" cover a readily identifiable event as defined under national laws and regulations, with potential to cause an injury or disease to persons at work or to the public?

Total number of replies: 63.

Affirmative to (c): 50. Australia, Austria, Bahrain, Belarus, Benin, Brazil, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Denmark, Egypt, Eritrea, Estonia, Ethiopia, Gabon, India, Indonesia, Israel, Jamaica, Kenya, Republic of Korea, Kuwait,

Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, Norway, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Russian Federation, Singapore, South Africa, Suriname, Thailand, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 8. Cuba, Czech Republic, Finland, Germany, Hungary, Italy, New Zealand, Spain.

Other: 5. Bulgaria, Portugal, Slovakia, Sweden, Turkey.

Australia. The legislation administered by Comcare provides that:

(1) If an employer is conducting an undertaking, and there arises out of the conduct of the undertaking or out of work performed by an employee in connection with the undertaking:

(a) an accident that causes the death of, or serious personal injury to, any person; or

(b) an accident that causes an employee who performs work in connection with the undertaking to be incapacitated from performing work for a period prescribed for the purposes of this paragraph; or

(c) a dangerous occurrence;

the employer must, in accordance with the regulations, give to the Commission such notice of, and such a report concerning, the accident or dangerous occurrence as the regulations require.

"Dangerous occurrence" is defined by regulation as: any incident resulting from operations and undertakings conducted by the employer, that could have, but did not cause death or serious personal injury to any person, or the incapacity of an employee for a duration of 30 or more consecutive working days or shifts.

Belgium. CNT: The workers' organizations stress the need to take account of the concept of dangerous occurrences and incidents in order to devise genuine prevention policies. The national system already provides for the recording of accidents which entail only minor medical treatment. The employers' organizations consider that certain concepts are too vague and might give rise to various problems of interpretation. This applies in particular to incidents or "near accidents". They are of the opinion that the decision whether or not to report these risks to the competent authority should be for the employer to take, in so far as they do not entail any real danger for the health and safety of workers. They would therefore like only the terms "occupational accident", "commuting accident" and "occupational disease" to be taken into account in defining the scope of the Protocol.

They consider that the management of incidents and dangerous occurrences (recording procedures, analysis, prevention measures, etc.) comes within the competence of the employer. An obligation to record and possibly notify could give rise to various problems of interpretation (margin of interpretation of definitions) and, more importantly, entails an unacceptable administrative burden (for every occupational accident there are between 300 and 600 incidents).

Brazil. CNI, CNF, CNT: No, to the words "the public". Since this is to be an instrument that deals with the recording and notification of occupational accidents and diseases, prevention must be restricted to the working environment.

Bulgaria. There is no clear difference between a "dangerous occurrence" and an "incident" referred to in (d), for example a load falls from an overloaded crane or a building collapses, both without injury to workers.

Cuba. This term, in its current form, might be confusing. We therefore suggest that it be defined as follows: "dangerous occurrence": all factors readily identifiable as defined under

national laws and regulations, with potential to cause injury or disease to persons at work or to the public.

Czech Republic. KZPS and CMKOS: Yes.

Finland. "Dangerous occurrences" should not be included in the Protocol but rather dealt with in a Recommendation, if necessary. Obtaining reliable information on "dangerous occurrences" and setting up a reliable system to monitor them does not seem to be a realistic objective.

SAK: Recording and notification procedures should also be applied to "dangerous occurrences" as appropriate. In order to prevent occupational accidents and diseases, it is important to register occurrences involving a danger or risk of accident. Dangerous occurrences are always a sign of shortcomings in the occupational health and safety measures within the workplace, and indicative of negligence as regards the prevention of safety or health hazards and/or protective equipment. It is, therefore, important that such occurrences are recorded both by individual employers and by authorities. Dangerous occurrences involving the threat of physical violence should be registered by both the employer and authorities so that protection and training can be properly targeted.

France. CGT-FO: The expression "dangerous occurrence" should be understood to mean any event posing an occupational risk with potential to cause physical or mental injury to a worker or to the public.

Germany. This term should not be contained in either the Protocol or the Recommendation. See comments in general observation.

BDA: This should not be taken as a criterion.

Greece. ESEE: Yes, but delete reference to the public.

Hungary. The definition is not accurate, since occupational accidents, occupational diseases and catastrophes are all included. The definition is not supported in this form.

Employers and workers: Yes.

Italy. National legislation does not provide for this.

Lebanon. Yes. Add the following sentence after the word "public" as follows: "regardless of whether the public has a relation to the work or not". This addition guarantees protection against injuries or diseases for the clients of the enterprise and the public who have no relation to the work and are outside the enterprise.

New Zealand. No. Requiring enterprises to report on "near misses" to a national body will generally be impracticable. The Protocol should focus on what is essential for the generation of useful national statistics that can then be used internationally. Also, the particular definitions suggested above overlap and are therefore potentially confusing.

Norway. Yes. The term "dangerous occurrence" must be a comprehensive one that covers all events with potential to cause injury to workers or others. The requirement that the situation be "readily identifiable" is too strict.

Panama. Yes, but should no clear definition exist in national legislation, then countries should follow the recommendations established by the ILO.

Slovakia. Only to persons at work, not to the public.

CTU: A dangerous occurrence should be defined as "an occurrence by which life and health of people or operation and development of an employer as well as property of an employer have been threatened severely".

South Africa. The national equivalent term is "major incident".

BSA: Yes.

Spain. The concepts of 5(c) relating to a "dangerous occurrence" are envisaged only in a number of technical regulations in Spain but, in general terms, are not found in the regulations relating to occupational accidents and diseases. In principle, they could be accepted as a technical definition, since this coincides with that given in the relevant literature but, for the purposes of a Protocol we believe that they are not acceptable. In no case should the definition be included in an ILO instrument.

UGT: Yes.

Sri Lanka. LJEWU: Yes.

Sweden. It is important that this term should be clearly and unambiguously defined, to make possible efficient and serviceable statistics. "Dangerous occurrence" needs to be explained and further modified. Judging by the report, this term refers to occurrences which could have caused injuries but did not do so. This type of information is more interesting for local work environment management. It does not provide a very sound basis for statistics.

Switzerland. UPS: It is necessary here to refer to the definition used in national legislation.

USS: Yes.

Turkey. Omit the words "or to the public".

United States. USCIB: No. No country, including the United States, tracks "dangerous occurrences". Such a Recommendation would be burdensome and impossible to implement in terms of obtaining consistent records.

Office commentary

The response to this part of the question reflects the differences in national law and practice between member States, the majority of negative responses coming from those which do not at present require the recording and notification of dangerous occurrences. In practice, of course, some occurrences will come to the notice of competent authorities and be investigated in response to public concern and as an aid to an accident prevention programme. Further to define dangerous occurrences in the proposed Protocol, as proposed by the Government of Sweden, would appear to the Office to be difficult to reconcile with the expressed intention to leave a definition to national laws and regulations. These are better able to reflect the level of development of a member State and the competent authority within it, the probable list of dangerous occurrences being greater in some than others. This may also take account of the concern of several governments to confine the term to potential hazards to persons at work rather than include the public which, as in the collapse of a crane, may be difficult to distinguish in practice. The Office notes the observations as to the distinction between a dangerous occurrence and an incident and returns to this in commenting on the next part of the question. This question appears in the proposed Protocol as Article 1(c).

Qu. 5(d) *For the purposes of the Protocol should:*

(d) the term "incident" cover an unsafe occurrence arising out of, or in the course of, work where no personal injury is caused or where personal injury requires only first-aid treatment?

Total number of replies: 62.

Affirmative to (d): 46. Australia, Austria, Bahrain, Belarus, Benin, Brazil, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Egypt, Eritrea, Estonia, Ethiopia, India, Indonesia, Israel, Jamaica, Kenya, Republic of Korea, Lebanon, Lithuania, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Singapore, Slovakia, South Africa, Suriname, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 8. Cuba, Czech Republic, Germany, Italy, Malaysia, New Zealand, Russian Federation, Spain.

Other: 8. Bulgaria, Denmark, Finland, Gabon, Hungary, Norway, Portugal, Sweden.

Australia. Yes. WorkCover NSW is of the view that the definitions of dangerous occurrence and incident are similar and should be confined into a single data set.

Belgium. CNT: No. See comment in reply to Question 5(c).

Brazil. CNI: Personal injury requiring first-aid treatment is regarded as an occupational accident.

Bulgaria. See comment in reply to Question 5(c). It is advisable that cases of first-aid treatment be considered as occupational accidents.

Chile. The term "incident" should refer to a personal injury which is not such as to oblige the worker to lose one working day.

Cuba. We believe that this definition is also confusing and propose that it be modified as follows: to cover an occurrence (accident, injury, etc.) arising out of, or in the course of, work where no personal injury is caused, or, if it is caused, then the person is capable of continuing to work.

Czech Republic. KZPS and CMKOS: Yes.

Denmark. Replace the word "incident" with the words "near accident".

Egypt. FEI: No.

Finland. "Unsafe occurrence" should not be included in the Protocol but dealt with in a Recommendation, if necessary.

France. CGT-FO: The term "incident" should be excluded from the field of occupational accidents, as it introduces the notion of degree in the seriousness of work accidents. In the absence of injury the "dangerous occurrence" applies. In the case of minor injuries requiring only first-aid treatment, the notification procedure should be simplified, although it should be maintained. The term "incident" may lead to an underestimation of occupational risk situations. It is better to use only the term "occupational accidents".

Gabon. No, the term "incident" should cover all occurrences arising out of, or in the course of, work where no personal injury is caused. The second part relates to occupational accidents as there is an injury even if it is minor.

Germany. This term should not be contained in either the Protocol or the Recommendation. See comments in general observations.

BDA: This should not be taken as a criterion.

Greece. ESEE: No, "incident" is covered by "dangerous occurrence".

Hungary. The inclusion of "unsafe occurrences" should be reconsidered.

Honduras. COHEP: No, the definition is unclear and will result in confusion. All accidents begin with an incident.

Indonesia. Employers' Association of Indonesia (APINDO): No, since it will require great and unnecessary data to be reported, which needs only to be kept in the company.

Israel. The recording of "incidents" should be done by the employer with no obligation to notify the competent authority.

Italy. It would seem that the ILO is referring both to accidents with an aftermath and those without – this stance cannot be shared.

Republic of Korea. Yes, since the Protocol only deals with occupational matters.
Federation of Korean Trade Unions (FKTU): No.

Malaysia. No, personal injury that requires first-aid treatment should come under non-fatal occupational injury.

Namibia. Yes, but provided countries have the necessary resources to include "incidents" in their reporting mechanisms.

Netherlands. First-aid treatment is a criterion that differs between countries and within countries depending on the facilities. One could consider a definition in terms of "if the criteria under 5(a)(ii) are not met".

New Zealand. No. See comment on Question 5(c).

Norway. Yes. The term "incident" should be confined to occurrences where no personal injury is caused. Even if personal injury requires "only" first-aid treatment, we believe that such injury should be characterized as an occupational accident. Moreover, a large element of judgement is involved in deciding whether what is needed is merely first-aid treatment or more extensive medical treatment, such that it would be difficult to harmonize the term nationally across trades and industries and across countries.

Qatar. Yes, taking into consideration the difficulties in applying this since notifying such incidents is not an obligation.

Russian Federation. No. It is not clear what this definition means.

Singapore. Singapore National Employers' Federation (SNEF): No, such incidents should not be made reportable to the authorities. Singapore's legislation does not require such incidents to be reported. While employers keep track of an "incident" for the purpose of managing safety and health at the workplace, it would be unproductive for employers and for authorities if "incidents" are made reportable to the authorities.

South Africa. BSA: Yes, in principle, but would caution that many countries might in practice simply not have the necessary resources to include "incidents" in their reporting mechanisms.

Spain. For the same reason as given in the comment on Question 5(a) the definition of "incident" is not acceptable, and in no case should a definition of incident be included in an ILO instrument.
UGT: Yes, including members of the public present in the workplace.

Sri Lanka. LJEWU: Yes.

Sweden. The term "incident" as defined in the text will include both occurrences causing injury and occurrences not doing so. It is hard to see the logic in this. Either we have an accident (which causes injury) or else a near accident (which does not). This type of information again is above all interesting for the purposes of local work environment management.

Switzerland. UPS: Article 9 of the OLAA (regulation concerning accident insurance) does not use the term "incident"; it mentions accidents and similar personal injury. Is it really necessary to create a category of "incidents"?

USS: Yes.

United Arab Emirates. The definition seems acceptable; our concern regarding incidents arises from the fact that they are indirect evidence of the soundness of adopted occupational safety measures (considering that an incident is an occupational accident which does not cause any personal injury due to appropriate occupational safety measures being taken).

United States. USCIB: No. The test of a successful safety programme is the tracking of the serious incidents and whether they are declining in the workplace.

Office commentary

Although the substantial majority of responses to this part of the question were in the affirmative the Office recognizes the validity of responses such as those from the Government of Norway which argues that an incident which causes personal injury, albeit an injury which required only first-aid treatment, should be regarded as an occupational accident. The wording of the term as it now appears as Article 1(d) in the proposed Protocol reflects this. This part of the question is concerned with the concept of an incident rather than what may flow from it in terms of recording and notification. It is a concept which was discussed and adopted by the Meeting of Experts in October 1994 which drew up the ILO code of practice on the recording and notification of occupational accidents and diseases which contains the definition used here. Knowledge of such incidents was seen as important at the enterprise level in improving the effectiveness of preventive measures through an analysis of the causes of incidents. Attention is drawn to the fact that the notification of "incidents" is not envisaged.

The Office notes the observations as to the difficulty of distinguishing between incidents and dangerous occurrences but believes this will be apparent with the definition of the latter in national laws and regulations. It has, however, introduced the words "other than a dangerous occurrence" to avoid duplication. The alternative term "near accident", referring as it does to the possible consequences rather than the nature of the event, is thought not to be appropriate.

For the purposes of the Protocol should: **Qu. 5(e)**

(e) the term "commuting accident" cover an accident occurring on the direct way between the place of work and:

(i) the worker's principal or secondary residence;

(ii) the place where the worker usually takes his or her meals; or

(iii) the place where the worker usually receives his or her remuneration, which results in death or personal injury involving loss of working time?

Total number of replies: 63.

Affirmative to (e): 44. Australia, Austria, Bahrain, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Equatorial Guinea, Ethiopia, Finland, Gabon, Hungary, India, Israel, Italy, Jamaica, Kenya, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Morocco, Namibia, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Singapore, Suriname, Sweden, Thailand, United Arab Emirates, Yugoslavia.

Negative: 7. Czech Republic, Denmark, New Zealand, Norway, Slovakia, Spain, United Kingdom.

Other: 12. Barbados, Chile, Croatia, Eritrea, Germany, Republic of Korea, Malta, Netherlands, Portugal, Russian Federation, South Africa, Turkey.

Australia. In the State of Victoria, injuries suffered while travelling to and from work are not occupational injuries. These "commuting accidents" are dealt with through traffic accident compensation arrangements. Injuries sustained while travelling to a usual meal place or place of remuneration are fully compensable but not classified as commuting accidents.

Austria. The definition of the term "commuting accident" is narrower than that applied in Austria.

Barbados. With reference to commuting accidents, there is some difficulty in establishing a person's principal or secondary residence and this should be more clearly defined.

BEC: (e) Should be limited to situations where the employer is in charge of the transport, or where the worker is sent to a workplace other than his normal workplace.

Benin. Yes, but the route may vary as a result of, for example, sickness of a family member, need for vehicle repairs, etc.

Brazil. The reference to lost working time is unnecessary.

CNI, CNA, CNF: There is need for a better definition of the term "secondary residence".

CNT: "Commuting accident" should refer only to accidents which occur between the principal residence and the workplace.

Bulgaria. Commuting accidents should include those to the location where the worker usually eats during working hours and the location where compensation is received.

Chile. The term should be used only to mean those accidents which occur in the journey to and from home and work, including work for a different employer.

Colombia. (iii) The words "involving loss of working time" should be deleted since the central theme of the instrument must be occupational accidents with the focus on workers' health, not lost working time.

Croatia. (i) Omit secondary residence.

IOM: Include on the way to obtain health care.

National Institute of Public Health (NIPH): Omit (ii) and (iii).

Czech Republic. CMKOS: Yes to (e)(i). Add (iv) the place of medical treatment/examination.

OSPZV: Yes to (e)(iii).

KZPS: Yes to (e)(iii). Add (iv) another place of work.

Denmark. No. Traffic accidents occurring on the way to and from the place of work are not considered to be occupational accidents in Denmark.

Egypt. FEI: National legislation should be observed in defining the term "occupational accident"; recourse can be made to the proposed text in cases where such provision does not exist in domestic law.

Eritrea. In national law and practice "commuting accidents" are left to collective agreements and we would prefer the instruments to be consistent with this.

Ethiopia. Confederation of Ethiopian Trade Unions (CETU): The definition of "commuting accident" should cover only (iii).

Finland. Commuting accidents must cover travel between the workplace and the worker's residence, including "secondary residence", and between the workplace and the place where the worker usually takes his/her meals according to national practice. In Finland, "commuting accident" is a broad concept which covers many work-related incidents, in addition to accidents at the workplace and while actually commuting. In order to avoid overlap in definitions and recording, classifications already harmonized by the EU should be adhered to.

France. CGT-FO: The term "commuting accident" should cover any accident occurring on any route to or from the place of work which results in physical injury.

Germany. The term "commuting accident" should refer to an accident which an insured person suffers on the direct way to or from the place where the insured activity is carried out. There must be an inherent connection between the stretch of itinerary and the insured activity, i.e. that itinerary must serve the insured activity. It already follows from this requirement which accidents should be recorded as commuting accidents.

BDA: In our opinion commuting accidents which occur outside working hours and accidents which occur during a worker's leisure time should be dealt with, with the following reservations:

(i) and (ii) Yes.

(iii) Only in the case of payment of wages in cash.

The time criterion which applies to occupational accidents should apply to all commuting accidents.

Greece. ESEE: No.

Honduras. COHEP: No, only if the employer is providing the transport or is sending the worker to a place of work.

Hungary. (i) and (ii) Yes. (iii) Yes in case of organized work.

Employers: Commuting accidents in Hungary are only considered to be occupational accidents if they happen using a vehicle owned by the employer.

Workers: Yes.

Italy. National legislation excludes such accidents which are traceable to the risk inherent in the choice made, or the calculated risk taken, or if a private means of transport is used, in situations where conduct has been blatantly culpable.

Japan. NIKKEIREN: Same as in (a); the definition of "commuting" accidents should be left to the actual circumstances found in each country.

Kenya. (iii) Will create great difficulty when it comes to deciding where the worker receives his/her remuneration. In some cases this may be paid through a bank of his/her choice, which could be very far from his workstation, perhaps in a different town.

Republic of Korea. Yes to (i) only.
Korean Confederation of Trade Unions (KCTU): Yes.

Lebanon. (i) Yes, no matter whether the employer provides the means of transport or not, provided that the trip should be without stop or deviation from the direct way for reasons independent from work.

(ii) What is meant by the expression "usually"? Could the worker not change the place where he or she usually takes meals and go to another place within th. time allowed? The expression "commuting accident" should include any accident which might occur between the place of work and the place where the worker takes his or her meals within the time allowed. Accordingly, the occupational relationship between the worker and the employer should continue, even during mealtimes.

(iii) The place where the worker receives his or her remuneration could be inside or outside the enterprise (for instance, in a bank). In both cases, we think that a work accident should include any accident which might occur between the workplace and the place where the worker receives his remuneration.

A new paragraph should be added in relation to a worker who might be entrusted with a task outside his enterprise, no matter whether in the same country or abroad, and to the worker who might receive training outside the enterprise, so that a work accident should include any accident which might occur during or on the occasion of the performance of such work or training. The same case might apply to an emergency, during or on the occasion of which the worker might be involved in rescue operations within the enterprise in which he works.

Malta. (ii) Yes, but only if the place where the worker usually takes his or her meals is on the work premises, unless the nature of the work necessitates travel outside the work premises.

Mexico. In addition, we propose the inclusion of "the place where the workers' children are cared for".

New Zealand. No. There is no clear reason why commuting should be singled out. Also, the definition is very limited, for instance, it does not cover situations where a person was delivering children to school or childcare but on the way to or from work. The distinction that is more useful is whether the injury was the result of work, which may include commuting — for instance if a person was fatigued and that resulted in an accident.

Norway. In Norway, commuting accidents are not considered as work-related accidents and it is not required that these accidents be recorded or notified. Transportation accidents, meaning accidents occurring on the direct way between the place of work and either one of the alternatives under (i), (ii) and (iii) are not covered by Norwegian law. The Working Environment Act only refers to accidents occurring when executing work. This implies that only accidents occurring when the employee is at the disposal of the employer are included in the obligation to record and notify accidents. Accidents occurring when employees are travelling by car or some other means of transport as required by the nature of their work are notifiable.

Close consideration will be given to whether the phrase "commuting accident" should cover an accident occurring on the way between:

> the worker's residence and place of work in cases where the workplace is an ambulatory one to which the worker travels directly from home, and the journey is through areas prepared by the employer, such as in the case of construction work where no public road is available (i);

— the worker's place of work and the place where the worker takes his or her meals during the working day (ii);

— the place of work and the place where the worker receives his or her remuneration (iii).

Peru. Yes, although our legislation does not cover a commuting accident as an occupational accident.

Philippines. Yes, provided that the act of the employee going to, or coming from, the workplace was a continuing act, that is, he had not been diverted therefrom by any other activity, and he had not departed from his usual route to, or from, his workplace; and if an employee is on a special errand, the special errand must have been official and in connection with his work.

Russian Federation. No. Only accidents involving the employer's transport should be covered.

Singapore. SNEF: No. Currently, the Workman's Compensation Act requires an accident happening to a worker who is travelling on transport operated by or on behalf of the employer and not a public transport service to be compensable and reportable to the authorities. The definition above would inevitably put the responsibility on employers for all commuting accidents for which the employers have no control. The wide coverage will raise the cost of workman's compensation insurance.

NTUC: Yes.

Slovakia. No definition should be provided; it should be left to the regulations pursuant to national legislation and rules. An accident which has happened to an employee on his/her way from/to the workplace is not considered to be an occupational accident.

South Africa. (ii) Only when reasonable use of such a facility is made.

(iii) No, this has no bearing on the contract for service.

BSA: There is serious concern that a too liberal interpretation of the term "commuting accident" might defeat the object of obtaining a clear picture of the real extent of occupational accidents and diseases. BSA would urge that only accidents directly related to the workplace/situation should be included. This means that accidents where the employer is in control of the transport, such as workers being taken from one shaft to another on a mine, or where the worker is sent to a workplace other than his normal workplace, should be included. In effect this implies that only accidents occurring from the time the worker "clocks in" for work should be included. The response to the following three items should be seen against this background and this comment also applies to all the other questions that include a reference to "commuting accident".

(i) No, this should form part of normal road accident statistics.

(ii) and (iii) Yes, provided it is part of the normal duties of the worker.

Spain. The definition of commuting accident is not acceptable as in Spanish legislation these are considered to be occupational accidents which are defined with broader criteria than those specified in the ILO proposals.

UGT: Yes, including such accidents outside working time.

Switzerland. UPS: Only definition (i), not (ii) and (iii), should apply here.

USS: Yes.

Turkey. Yes to (i) only.

United Arab Emirates. (i) Since most industrial establishments provide transportation for workers from and to workers' residences, it would be appropriate to state from and to the industrial establishment by the establishment's buses.

(ii) As these places are usually located within the industrial establishment, it would be natural to consider it an occupational accident; in cases where no canteen exists for workers within the plant, the worker will be compelled to take his meals outside the plant; in this case it should be considered an occupational accident.

(iii) This point should take into consideration the fact that nowadays most industrial establishments have adopted the practice of transferring the worker's remuneration to his or her bank account. Therefore, this point should be clarified in order to avoid any ambiguity.

United Kingdom. No. See comment under Question 21.

United States. USCIB: No. In the United States these circumstances are not considered to be work related.

Office commentary

As with the previous two questions, the responses substantially reflect existing law and practice in member States. Thus negative responses were from those States in which commuting accidents are regarded as traffic accidents and are required neither to be recorded or notified by the employer. Other member States and organizations proposed that a definition of commuting accidents be left to national law and practice permitting wide variations.

Among other responses there was a noticeable variation as to the categories of journeys to be covered by a Protocol, for example whether these should be confined to journeys in the employer's own transport, whatever the purpose of the journey, and whether they should include travel for health care. The Office does not regard the wording of the question as providing an exclusive definition but rather as allowing an extension of the categories, albeit not a limitation, in order to reflect differing social and working conditions in member States.

Several responses refer to the difficulty of deciding what is meant by a worker's secondary residence and, similarly, the place at which remuneration is received when it is paid directly into a bank which may be remote from the place of work. These terms were used in the Employment Injury Benefits Recommendation, 1964 (No. 121), and were adopted 30 years later by the Meeting of Experts which drew up the ILO code of practice on the recording and notification of occupational accidents and diseases. The question appears as Article 1(e) in the proposed Protocol.

Systems for recording and notification

Qu. 6 *Should the Protocol provide that the competent authority shall, by laws or regulations or any other method consistent with national conditions and practice, and in consultation with the most representative organizations of employers and workers, establish and periodically review requirements and procedures for:*

(a) the recording of occupational accidents, occupational diseases, dangerous occurrences, incidents, commuting accidents and, as appropriate, suspected cases of occupational diseases; and

(b) the notification of:

(i) occupational accidents, occupational diseases and dangerous occurrences; and

(ii) commuting accidents and suspected cases of occupational diseases, as appropriate?

Total number of replies: 68.

Affirmative: 54. Australia, Austria, Bahrain, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Gabon, Hungary, Indonesia, Israel, Italy, Jamaica, Kenya, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Singapore, Suriname, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Other: 14. Barbados, China, Czech Republic, Finland, Germany, India, Republic of Korea, Kuwait, New Zealand, Qatar, Slovakia, South Africa, Spain, Sweden.

Barbados. The definition of the primary or secondary residence as it relates to a commuting accident needs further clarification. The BEC agrees and also considers that clarification is needed on the meaning of "suspected cases" in subparagraph (a).

Benin. (a) The competent authorities should draw up handbooks of procedure for recording occupational accidents and diseases, dangerous occurrences, incidents and commuting accidents, in accordance with well publicized laws and regulations.

(b) Legislation and regulations will also have to be adopted as part of the effort to harmonize notification procedures in cases of occupational accidents and diseases and dangerous occurrences, on the one hand, and in cases of commuting accidents and suspected occupational diseases, on the other. The Protocol could define the general principles to be taken into account in national legislation.

Bulgaria. It will be difficult for the recording of accidents to be implemented in practice, especially in small enterprises.

Canada. To ensure consistency with clause (b)(ii), which provides for the notification of commuting accidents and suspected cases of occupational diseases *as appropriate*, subparagraph (a) should read as follows:

(a)the recording of occupational accidents, occupational diseases, dangerous occurrences, incidents and, as appropriate, commuting accidents and suspected cases of occupational diseases; and

In Canada the employer's obligation to ensure workers' health and safety is limited to the workplace: only accidents occurring to workers in the workplace during crew transport by the employers and while commuting between job sites are reportable.

Chile. There is no national requirement to register dangerous occurrences, incidents or suspected cases of occupational disease, although the importance of doing so in future is recognized.

China. Supports (b)(i).

Croatia. IOM: Practice shows some difficulties primarily related to commuting accidents (recording of "false" accidents, lack of possibility to apply preventive work safety measures) and suspected cases of occupational diseases (different criteria for term "suspected").

Czech Republic. Yes, except commuting accidents.
OSPZV: No to (b)(ii).

Denmark. In order to make the recording useful for comparable analyses, notifications must follow the same procedure. Common rules for, especially, the notification of occupational accidents and diseases should be introduced.
FTF: All types of injuries, including occupational accidents and diseases which arise in connection with the performance of work or as a result of a poor working environment, should be recorded. The recording should as a minimum contain information about the injured person, including occupational status, work function, age, gender and type of injury/disease.

Estonia. In (a) and (b)(ii) exclude commuting accidents.

Finland. (a) and (b)(i): The Protocol should not deal with the notification of "dangerous occurrences".
From the point of view of development of the working environment, it is important to base recording on binding regulations which at least break down occupational accidents and occupational diseases. Consideration might be given to gender-specific data collection.

Germany. Yes, except for the terms "dangerous occurrence" and "incident", which should not be contained in either the Protocol or the Recommendation (see general remarks).
BDA: Yes, but see comments on 5(c) and (d). It is not clear what is meant by "suspected cases of occupational diseases".
DGB: In (a) the abovementioned addition of "work-related diseases" must be added here also. In (b)(ii) the words "as appropriate" must be deleted.

Honduras. COHEP: The wording is not clear. See the comment on Question 5.

Hungary. Yes, but not the notification of "dangerous occurrences" and "incidents". In Hungary "suspected cases of occupational diseases" are not subject to notification. However, cases of severe exposure must be notified. The definition of these cases is unequivocal, they are easy to diagnose and essential to the prevention of occupational toxicosis.

India. "Suspected cases of occupational diseases" is not a defined term and should be omitted from the Protocol for the time being.

Jamaica. This would help countries, especially developing countries, by providing a stronger leverage to encourage enterprises to participate more fully.

Republic of Korea. Yes, but dangerous occurrences, incidents and commuting accidents should be excluded.
KEF: Yes.
FKTU: Yes.
KCTU: Yes.

Kuwait. Yes, except commuting accidents, as they are often traffic accidents, and cannot be considered occupational accidents.

Lebanon. Yes, on the understanding that national legislation determines the nature of the occupational accidents and diseases which must be notified. Casual (simple) accidents might not require notification.

Netherlands. Yes, the establishment and periodic review of systems for recording and notification should be emphasized.
VNO-NCW: Yes, but with the exception of (b)(ii).

New Zealand. Yes, but only in respect of injuries and diseases. See answer to Question 5.

Norway. (a) Yes, the recording should also include work-related *disorders* (according to Norwegian law any disease that is assumed caused and/or aggravated by the nature of the work or the conditions at the workplace shall be recorded by the employer), but not commuting accidents in general. We are of the opinion that the term "suspected cases of occupational diseases" would need some clarification.

(b)(i) Yes. Again, work-related disorders should be included.

NHO: Opposed to the inclusion of work-related disorders.

Panama. Work processes are dynamic, and new technologies, substances and productive methods are introduced, as well as changes in the epidemiological profile of population groups.

Poland. PKPP: (a) Yes. (b) To refer only to occupational accidents and diseases.

OPZZ: (a) Yes. (b)(ii) Not necessarily in the case of commuting accidents.

Portugal. Confederation of Portuguese Farmers (CAP): Yes, but adding the words "where appropriate". The establishment and periodic review of requirements and procedures for the recording and notification of occupational accidents and diseases should not be laid down by international standards.

Qatar. (a) We believe that there should be a distinction between the recording of occupational accidents and occupational diseases since the recording of occupational accidents could apply to all undertakings, whereas the recording of occupational diseases, the way it is described in the text, might be applied in large undertakings and hazardous industries.

Romania. Differences may exist between systems used for the collection of data on occupational accidents and diseases which could have an impact on the actual number of cases recorded. Consequently, the Protocol should set out provisions concerning this point or relating to the fact that the competent authority should be responsible for establishing recording and notification procedures.

Russian Federation. Yes. It provides for national laws and practice such as exists in Russia where there are two principal laws, one concerned with the management of occupational safety and health and the other with social insurance. Under (a) and (b) the various categories should be further separated rather than grouped together. This will make discussion easier and, subsequently, the comparison of statistics.

Slovakia. (b)(i) Dangerous occurrences should be notifiable only if they concern employees, not the public. (b)(ii) No in the case of commuting accidents.

South Africa. Yes, but excluding "dangerous occurrences" and "incidents" where no injury or disease is involved.

BSA: (a) Yes, but clarification is needed on the exact meaning of "suspected cases of occupational diseases". In this regard it would be important to indicate who suspects these cases. (b)(i) Yes; (ii) see the response to Question 5(e).

Spain. No to the recording and notification of dangerous occurrences and incidents. Only in specific cases does it appear appropriate to revise the requirements and procedures for the recording of occupational and commuting accidents, or occupational diseases; this is especially true in relation to specific aspects of such diseases, indirectly related to recording, for example the inclusion of new types of occupational diseases that must be recorded, so as to adapt the list to the progress made in new technological situations (use of new dangerous chemical substances liable to cause occupational diseases). In general, we consider that the changes in question relating to generic recording requirements or procedures can be made by amending the corresponding standards; this does not imply the need to do so periodically.

UGT: As regards areas subject to notification, these should also include incidents and should allow the incorporation, in the established recording and notification systems, of all other areas which the parties involved consider similarly expedient.

Sri Lanka. LJEWU: Yes.

Sweden. Incidents and dangerous occurrences should be observed and dealt with at local level, not nationally.

Switzerland. UPS: The reference in (a) to "suspected cases of occupational diseases" is not clear, and should be clarified during discussions at the Conference; second, in Switzerland, commuting accidents are covered by non-occupational accident insurance (AANP).

USS: Yes.

Syrian Arab Republic. FTU: Yes, provided that suspected cases are excluded.

United States. USCIB: Yes, in a Recommendation.

Yugoslavia. Yes, to determine the responsibility of the employer for an accurate and timely registration and notification.

Office commentary

The responses to this question are unanimous in approving the principles of recording and notification, both for the development of preventive policies and comparable analysis, varying only as to the categories of events to be referred to, and so have been recorded as affirmative. Reflecting the comments in answer to Question 5 in its several parts, responses tend to echo national laws and regulations as to the categories of events which should be recorded and subsequently notified. Thus there is unanimity as to the need to record and notify occupational accidents and diseases, but there are differences as to dangerous occurrences, incidents, commuting accidents and suspected cases of occupational diseases.

It may be that the national laws and regulations referred to in the question will include details such as gender-specific data, as referred to by the Government of Finland, but such details are thought by the Office to be inappropriate for a Protocol. The relationship of a notifiable disease to a work activity is thought to be made clear in the wording of Question 5(b) and the suggested reference to a work-related disease is, therefore, considered tautologous.

The Government of Denmark comments on the need for notification to follow a common procedure, a matter dealt with in more detail in Question 8, while the Government of Benin sees a need for advice on such procedures. The ILO code of practice referred to is helpful in this respect.

The question appears as Article 2 in the proposed Protocol.

Qu. 7 *Should the Protocol provide that the requirements and procedures for recording shall include:*

(a) the responsibility of employers:

(i) to record occupational accidents, occupational diseases, dangerous occurrences, incidents, commuting accidents and, as appropriate, suspected cases of occupational diseases;

(ii) to ensure appropriate maintenance of these records;

(iii) to use these records for the establishment of preventive measures; and

(iv) to provide appropriate information to workers and their representatives concerning the recording system;

(b) the minimum information to be recorded; and

(c) the minimum duration for maintaining these records?

Total number of replies: 68.

Affirmative: 55. Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, Colombia, Costa Rica, Croatia, Czech Republic, Denmark, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Germany, Hungary, Israel, Italy, Jamaica, Kenya, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, South Africa, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Other: 13. China, Cuba, Cyprus, Estonia, Finland, India, Indonesia, Republic of Korea, Kuwait, New Zealand, Norway, Slovakia, Spain.

Austria. Under no circumstances should (a)(iv) be excluded as it ensures that employers are responsible for providing appropriate information to workers and their representatives concerning the recording system.

Belgium. CNT: The workers' organizations agree with the establishment of recording and notification procedures as proposed, since these can only improve prevention. The employers' organizations point out that it is the employer's responsibility to notify and record incidents, dangerous occurrences and suspected cases of occupational diseases, especially as they consider these concepts to be very imprecise. They reiterate that they consider the employer's responsibility in this context as being limited to occupational accidents, commuting accidents and occupational diseases (not dangerous occurrences and incidents) for reasons of administrative simplification. The Council draws attention to the fact that information to be provided under clause (a)(iv) is for the sole purpose of assisting workers and their representatives in their task of dealing with occupational accidents and diseases. The recording procedure should be viewed as a technique for compiling occupational accidents and diseases; therefore it cannot include data covered by medical confidentiality.

Brazil. CNI, CNF, CNT: Yes, except for the words "suspected cases of occupational diseases" in (a)(i).

Bulgaria. (a) The responsibilities of employers should include the investigation of accidents.

Chile. It is important to mention the need for employers to consult workers in advance about the kind of information that should be recorded and about the purpose of such a procedure.

China. Supports (a).

Cuba. We believe that it should be compulsory for all enterprises to record occupational accidents, occupational diseases, commuting accidents and fatal accidents. However, recording occurrences and incidents should be at the enterprise's discretion, depending on the type of enterprise, as there are enterprises that lack the structure and organization for this and that find it quite difficult to maintain a reliable record of these events.

Cyprus. (a)(i) Yes, except for commuting accidents.

Denmark. (a) FTF: The recording of occupational accidents, occupational diseases and suspected cases of occupational diseases should take place at the central level and the employers are not and should not be involved as actors in this connection. The employers' duty in connection with the necessary recording should be limited to the notification and the requirements laid down about the information to be provided.

(b) Yes, minimum information and maybe also a proposal for more extensive information which could be useful, especially when prevention is the target for analyses.

Egypt. FEI: (a) We agree only to the first part which provides that the employer should be responsible for recording the occupational accidents, occupational diseases, dangerous occurrences and incidents only and nothing beyond that.

(b) No, it should be left to national legislation.

(c) Yes, the duration should be between three to five years.

Estonia. (a)(i) Exclude commuting accidents.

Finland. (a)(i) and (b) The Protocol should not deal with the recording of "dangerous occurrences".

France. CGT-FO: (c) This proposal is especially relevant.

Gabon. (c) The minimum duration for registering and for maintaining records should be given.

Germany. (b) and (c) Yes, provided it is guaranteed that the addressees of these obligations are the competent authorities under domestic law or in domestic practice.

DGB: The following sentence must be added between clauses (ii) and (iii): "to ensure that risk factors are properly assessed:".

(c) The minimum duration for maintaining these records should be 30 years, and 60 years in the case of exposure to carcinogenic substances.

Subparagraph (d) should read as follows:

> The circumstances of the accident (e.g. the time, the commencement of working hours, the machines or appliances involved), the witnesses to the accident or, in the case of a suspected occupational disease, information on exposure to the health hazards, as documented in the assessment of risk factors.

Hungary. Yes, "dangerous occurrences" and "incidents" should be left out of clause (i). With respect to "suspected cases of occupational diseases" we refer to Question 6.

Employers: The records should be kept for at least five years.

Workers: Yes.

India. Yes, apart from "commuting accidents" and "suspected occupational diseases". Some occupational diseases may not appear until after 15 or more years' cessation of employment.

Indonesia. APINDO: (a) Yes. (b) No. (c) The minimum duration for maintaining these records should be at least ten years.

Italy. See general observations.

Japan. NIKKEIREN: The phrase "commuting accidents and, as appropriate, suspected cases of occupational diseases" should be deleted. It would be difficult comprehensively to discuss circumstances of varying natures and with different recognition methods, such as occupational accidents, occupational diseases, and commuting accidents. In the case of Japan, commuting accidents do not fall within the responsibility of the employer; neither are they considered occupational accidents. Only in cases in which there is a close connection with work, is compensation provided from the workmen's accident compensation insurance.

Republic of Korea. Yes, but exclude dangerous occurrences, incidents and commuting accidents.

KEF: Yes.

FKTU: Yes to (a) and (c).

KCTU: Yes.

Kuwait. There is no reason for holding employers responsible for commuting accidents and suspected cases of occupational diseases.

Lebanon. (c) Stresses the necessity for privacy as to the personal data used in these records.

Namibia. NEF: Yes, but under (a)(i) careful consideration should be given to the strong possibility that the reporting of "incidents" could be too onerous for many employers, particularly in small businesses.

Netherlands. Care should be taken to ensure the privacy of the victim.

VNO-NCW: (a)(i), (ii), (iii) and (iv) Yes, with the exception of "commuting accidents" and "suspected cases of occupational diseases".

(b) and (c) We agree with the principle but the details have to be elaborated by the member States.

New Zealand. Yes – within the limitations given in answer to the previous question and, in relation to (c), a minimum period may not be necessary if the information is passed on to the appropriate national organization(s) and held there, rather than the employer having to maintain records for a minimum period if that is not required for the employer's preventative measures.

Norway. Yes, but not commuting accidents in general.

NHO: (a) No, (b) Yes.

Pakistan. Yes, but a certain benchmark, depending on the financial status and size of the establishment, should be prescribed.

Panama. (c) The minimum duration for maintaining these records should be ten years.

Philippines. The minimum information recorded should be the names, dates and places of the happening, nature of the happening and absences.

Portugal. (iv) The privacy of individual workers must be preserved.

CAP: Yes, adding the words "where appropriate".

CIP: Yes, employers' responsibilities should conform to domestic legislation.

Russian Federation. Yes. (a)(i) Categories under (a)(i) should be separated as discussed under Question 6. In the Russian Federation these are dealt with by separate competent authorities.

(b) What is meant by "minimum"? This should be specified, perhaps in the Recommendation.

(c) The minimum period or periods should be specified – perhaps in the Recommendation.

Slovakia. (a)(i) No to commuting accidents. (c) No, leave to national legislation.

South Africa. BSA: Yes, but in (a)(i) careful consideration should be given to the strong possibility that the reporting of "incidents" could be too onerous for many employers, particularly in small businesses.

Spain. (a) This is acceptable for occupational and commuting accidents, occupational diseases and incidents, apart from anything which refers to dangerous occurrences and incidents, given that these "occurrences" should not be included in the instrument eventually adopted.

(b) and (c) Just as in the previous case, this is acceptable in relation to occupational and commuting accidents, occupational diseases and accidents without casualties, but not in any other case. Spanish legislation does not go into detail so as to determine the minimum period for which these records are maintained, although we do consider that this has limited value, since the information of interest for preventive purposes is reflected in the publications on labour statistics produced annually.

UGT: The Protocol should guarantee the protection of workers' rights in relation to their personal integrity, dignity and health as regards the use of information provided.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: As the Recommendation should be flexible, point (a) on the responsibility of employers should be limited in a pragmatic way to recording occupational accidents and diseases. The addition of other elements should be at the discretion of the country concerned. This comment applies to points (b) and (c).

USS: Yes.

United Arab Emirates. (b) The minimum period for keeping such records should be fixed, taking into account that certain occupational diseases may occur many years after ceasing work, such as cancer and exposure to asbestos (it may occur in the case of exposure to asbestos after 25–40 years). Physicians may be compelled in most cases to refer back to records in order to prove diagnoses and determine the suspected cases of occupational diseases.

United States. USCIB: (a)(i) No, because the list is too inclusive as discussed in the answers to Question 5 above. The employer should be responsible for collecting data on precise and agreed definitions of occupational accidents and diseases.

(ii) The definition of appropriate maintenance of records should take into account differences in industry, size of company and other relevant differences in employer circumstances and ability to collect such data.

(iii) No. This data collection should not include data on preventative measures.

(iv) This should be done in accordance with national law and practice as such practices vary widely among countries and within the United States itself.

(b) The minimum information to be recorded needs to be clearly defined and take into account the varying circumstances of employers.

(c) The minimum duration for maintenance of records needs to be clearly defined, not be unduly burdensome, and take into account the varying circumstances of employers.

Yugoslavia. (c) The minimum period should be five years after the closing down of the work position.

Office commentary

Most replies support the proposed principles and requirements for recording. The comments from the member States and organizations not recorded as affirmative are wholly in terms of what should be recorded, and how this should be done, rather than expressing dissent from the principle of recording.

Proposals relating to subparagraphs (b) and (c) seek to define what, in both cases, is meant by the word "minimum". The differences in the suggested duration of records, which is from five to 60 years, show how wide a variation in opinion there may be, a difference likely to reflect differing social and industrial development. The Office considers that both the information to be recorded and the duration for maintaining these records are appropriate for national laws and regulations which can properly take these matters into account. The Office now believes that the requirements determined by the member States are meant to be minimum without stating it. Thus the word "minimum" is considered redundant. The question as amended is contained in the proposed Protocol as Article 3.

Should the Protocol provide that the requirements and procedures for notification shall include: **Qu. 8**

(a) the responsibility of employers:

(i) to notify to the competent authority or other designated bodies occupational accidents, occupational diseases, dangerous occurrences and, as appropriate, commuting accidents and suspected cases of occupational diseases; and

(ii) to provide appropriate information to workers and their representatives concerning the notified cases;

(b) where appropriate, arrangements for notification of occupational accidents and occupational diseases by insurance institutions, occupational health services and others directly concerned;

(c) the types of occupational accidents, occupational diseases and dangerous occurrences to be notified; and

(d) time limits for notification?

Total number of replies: 68.

Affirmative: 53. Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Germany, Hungary, Indonesia, Israel, Italy, Jamaica, Kenya, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, New Zealand, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Suriname, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Kuwait, Slovakia.

Other: 13. Australia, Burkina Faso, Cyprus, Denmark, Estonia, Finland, India, Republic of Korea, Netherlands, Norway, South Africa, Spain, Sweden.

Australia. (a)(i) Only as provided for in current legislation/regulation.
(a)(ii) Yes, with appropriate safeguards for privacy and confidentiality.
(b) No.

Austria. (a)(ii) Ensures that employers are responsible for providing appropriate information to workers and their representatives concerning the notified cases.

Belgium. CNT: With regard to fixing notification deadlines, it would be more appropriate to refer to national practices which take account of occupational diseases with long latency periods. It fears that setting a specific deadline would prevent compensation for such diseases, with compensation currently guaranteed under existing practices in Belgium.

Brazil. CNI, CNF, CNT: Yes, except for the words "suspected cases of occupational diseases" in (a)(i).

Bulgaria. (a) Before providing notification of an occupational disease it should be determined as such by a competent medical body, which might notify the competent authority directly.

Burkina Faso. (c) No, all should be declared.

Chile. The proposed Protocol should include the objective of notification and, to some extent, the minimum action the competent authority should take in the light of such data, for instance to draw up public policies and national programmes for worker and employer training.

Cyprus. (a)(i) Yes, for all cases except for commuting accidents.
(d) The competent authorities should specify the time limits.

Denmark. (b) The employers should be responsible for the notification of occupational accidents, but other institutions may be accepted to notify on a voluntary basis. Responsibility for the notification of occupational diseases must be placed with the physicians who are most qualified to give a diagnosis. Other institutions may notify on a voluntary basis.
(c) The types of occupational accidents must be connected to the time lost, for instance one day's sick leave or three days' sick leave. The occupational diseases must be those accepted on the list, but also diseases that physicians recognize as caused by the performance of work.
(d) The time limit for the notification of accidents must be no later than two weeks after the accident has occurred. The competent authority must be notified immediately of very serious accidents and dangerous occurrences with a view to further investigation. The notification of occupational diseases must take place as soon as the physicians recognize the first symptoms of the disease.

Egypt. FEI: (a)(i) We agree with the first part only, which limits the employers' responsibility to notifying the competent authority or any other designated body of occupational accidents, occupational diseases, dangerous occurrences and incidents, but only those occurring within their enterprises, and nothing beyond that.

Estonia. (a)(i) Exclude commuting accidents.

Finland. It should be the employer's responsibility to notify the competent or agreed authority of any accidents without delay in accordance with national practice. If the notification includes an individual's name, attention must also be paid to protecting privacy.
(a)(i) and (c) The Protocol should not deal with the notification of dangerous occurrences.
(d) In Finland, medical doctors are also required to report occupational diseases. In the case of occupational diseases, they could perhaps be considered a more appropriate party to be bound by a notification obligation than employers.

France. CGT-FO: (c) There should be no distinction between types of accident, dangerous occurrences and occupational diseases. They should all be notified. The procedure may pos-

sibly vary later, but only in exceptional cases in order to guarantee the transparency of the procedures.

Germany. Yes, but subparagraph (a), clause (ii), should be amended. According to German law, every notification of an accident or occupational disease made by the employer has to be signed by the works council or staff committee. There is no obligation to inform all of the workers (data protection). The word "and" should therefore be replaced with the word "or".

BDA: (a)(ii) No. At most, information should be provided to the workers' representatives, but not to all workers.

(b) No, should concern only the employer.

Hungary. Yes. In Hungary the employer is only obliged to provide notification of fatal and mass diseases, in other cases it is the task of medical personnel. The employer receives information concerning these cases as the investigation proceeds. Therefore, clause (i) should refer to "fatal and mass diseases" instead of "dangerous occurrences". In subparagraph (b), we suggest completing the list as follows, "occupational health services, examining doctors and others directly concerned". In subparagraph (c), we suggest leaving out "dangerous occurrences". Concerning "suspected cases of occupational diseases" we refer to Question 6. The recording of medical diagnoses should be in compliance with regulations concerning the protection of personal data.

Employers: Yes, at least ten workdays.

Workers: Yes.

India. Yes, except for "commuting accidents" and "suspected occupational diseases".

Indonesia. APINDO: Occupational accidents should be notified not longer than 48 hours after they occur, and occupational diseases not longer than 48 hours after diagnosis.

Kenya. (d) The time limit should be given to ensure early reporting and preventive measures.

Republic of Korea. Yes, with the exclusion of dangerous occurrences and commuting accidents.

KEF: Yes.

FKTU: Yes to (a).

KCTU: Yes.

Kuwait. We see no reason for the Protocol to make provisions concerning the responsibility of employers and arrangements for the notification of occupational accidents and diseases; this should be left to national laws and practice in each member State.

Lebanon. (b) The Arabic text suggests that employers should notify the competent authority through the insurance institutions. Notification should be direct.

Mauritius. (b) It will enable health services to provide the necessary treatment and formulate appropriate preventive measures.

(d) The notification of occupational accidents should be in the quickest practicable way. The notification of occupational diseases should be carried out as soon as the employer is so informed by a medical practitioner.

Mexico. (d) The time limit for notification by an employer of any hazards is within 72 hours of an accident occurring or of a case of disease being detected.

Namibia. NEF: (a) Yes.

(b) Some clarification on the need for this kind of notification is required. It seems as if the purpose of such a requirement would be to cross-reference information already supplied by the employer. Since the employer would, however, provide information on occupational accidents

and diseases that would not necessarily be referred to insurance institutions or health services, the former would be more comprehensive and this begs the question why this kind of notification should be included. Furthermore, in instances where an employer manages his own occupational health service, he would be required to notify twice on the same issue – a principle that is not acceptable.

(c) Yes, provided it would not entail a separate report.

(d) Yes.

Netherlands. VNO-NCW: (a)(i) and (ii) and (b) Yes, with the exception of "commuting accidents" and "suspected cases of occupational diseases".

(c) and (d) We agree with the principle, but the details have to be elaborated by the member States.

New Zealand. Yes. There might also be some requirements for the national organization(s) that receive the information to maintain the records provided to them for a minimum period, if they are to become the archive and key custodian for injury prevention information nationally and internationally.

Norway. (a)(i) Yes, but only occupational accidents. In Norway, the employer is not obliged to notify occupational diseases and dangerous occurrences to the labour inspection authorities. Occupational diseases should be notified by the medical practitioners.

NHO: (a)(i) and (ii) No; (b), (c) and (d) Yes.

Pakistan. (a)(i) Yes. However, there should be a two-pronged approach. One should be for the notification of occupational accidents, diseases and dangerous occurrences and should be binding on the employer. The other should be voluntary and cover commuting accidents and suspected cases of occupational diseases because in these cases it is likely that the employer does not receive information.

(c) Yes, but there should be three categories. One should be occupational diseases or accidents and dangerous occurrences that are or can be linked with the workplace or working conditions. The second should be those which are not directly linked with the workplace or working conditions but are suspected to be linked to the work environment. The third should be those which have absolutely no linkage with the workplace or working conditions but involve injuries, etc., to workers.

(d) Yes. Existing legislation in Pakistan provides for a maximum of 24 hours for the notification/reporting of the occurrence of an accident/disease.

Philippines. In national law, the entry in the contingency logbook by the employer is required to be made within five days of knowledge of the occurrence, and within five days after entry the employer is required to report those contingencies he deems to be work-connected.

Poland. PKPP: Yes, but (a)(i) to refer only to occupational accidents and diseases.

OPZZ: Yes, but not necessarily (c).

Portugal. (d) However, there are risks associated with stating or laying down time limits for the notification of occupational diseases because they have different incubation periods. That is, for each occupational disease, with a few exceptions, the list specifies the period following termination of exposure to the risk during the course of which the disease must be diagnosed. With a time limit, if exposure to the risk is interrupted, and in the absence of diagnostic elements proving the causal link between the disease and exposure to the risk, it might prove difficult for the physician to determine whether or not the disease is of an occupational nature.

CIP: Such consideration must conform with national legislation and not be dealt with by international standards.

General Confederation of Portuguese Workers (CGTP-IN): Yes.

Slovakia. (a)(i) No to commuting accidents and dangerous occurrences.
(d) No, leave to national legislation.

South Africa. Yes, but excluding "dangerous occurrences".
BSA: (a) Yes.
(b) Some clarification on the need for this kind of notification is required. It seems as if the purpose of such a requirement would be to cross-reference information already supplied by the employer. Since the employer would, however, provide information on occupational accidents and diseases that would not necessarily be referred to insurance institutions or health services, the former would be more comprehensive and this begs the question why this kind of notification should be included. Furthermore, in instances where an employer manages his own occupational health service, he would be required to notify twice on the same issue – a principle that is not acceptable.
(c) Yes, provided that it would not entail an additional separate report.
(d) Yes, provided the competent authority, as suggested in Question 10, does in fact publish up-to-date statistics on a regular basis.

Spain. (a)-(d) This is acceptable for occupational and commuting accidents, and occupational diseases. It is not acceptable in relation to suspected cases of occupational diseases and dangerous occurrences for the reasons indicated above. The obligation to notify should be entrusted to enterprises and the social security bodies covering contingencies, in the terms established by national legislation; this should exclude the "occupational health services and others directly concerned". Increasing the number of bodies with an obligation to notify may distort the system and render it inefficient.
UGT: Yes.

Sri Lanka. LJEWU: (a) Yes, but with clarification. The notification of occupational accidents, occupational diseases, dangerous occurrences, etc., to the competent authority or other designated bodies is squarely placed on the employers. The patients suspected of having contracted occupational diseases and the victims of occupational accidents, etc., are first seen and examined by a medical practitioner or hospital medical expert. They are the first to know about and discover the disease and the first obligation is on them to report such diseases and accidents to the relevant authorities as provided for by law and practice. There appears to be some discrepancy.

Sweden. Yes, but "dangerous occurrences" should not be included in the requirements for notification. See comments on Question 5.

Switzerland. UPS: (a)(i) We repeat the comment made previously concerning the responsibility of employers. The Recommendation should be limited to the essential elements of the system (work accidents and occupational diseases), and avoid too much detail. Clause (a)(ii) introduces a bureaucratic procedure of doubtful utility.
(b), (c) and (d) These points should take account of national provisions.
USS: Yes.

Syrian Arab Republic. Federation of Trade Unions: Yes to (d), provided that the time limit for notification does not exceed one week.

United States. USCIB: (a)-(d) No. These questions presume a notification requirement to government authorities as incidents occur. The breadth of categories involved is too broad and inclusive. Notification should be limited to fatal accidents. The Recommendation should provide that reporting only occur annually to the competent authority based on agreed definitions of occupational diseases and injuries and that other disclosures occur in accordance with national law and practice.

Office commentary

This question expands upon Question 6 in placing the primary duty of notification upon the employer, with secondary duties upon named types of institutions and services. There was virtually no dissent to this in principle, although several responses support a specific reference to medical practitioners, who will frequently be the first to diagnose an occupational disease, and the Office has, accordingly, introduced such a reference in subparagraph (b). Because of a perceived need to reflect national law and practice and social conditions in this respect, it has not followed the proposal of the Government of Spain to delete the reference to occupational health services.

As in the responses to the previous questions in Part II, those member States and organizations which did not give a direct affirmative had regard to their national law and practice by which some, or all, of the categories of events other than accidents and diseases are not required to be notified to the competent authority. The Office again believes that the use of the qualifying words "as appropriate" sufficiently acknowledges national variations.

Several member States and organizations seek a mention of specific time limits for notification, as was sought for recording, but while 72 hours, as proposed by the Government of Mexico, is frequently used in practice, the response of the Government of the Philippines shows it is by no means universal, and the wording of the question has been left unchanged in the corresponding Article.

There are proposals to refer to the object of recording and notification, which is indisputably to develop preventive methods and policies and to provide comparable national statistics, but to describe such methods and policies in detail, e.g. training, would go beyond the scope of the proposed Protocol.

The Government of Denmark pointed out the need for the types of occupational accidents to be connected to the time lost, i.e. sick leave taken, when specifying the accidents to be notified. To reflect this point, the Office proposes the use of the word "criteria" for notification, which would flexibly cover the types and specifications. Since the notification of commuting accidents and suspected cases of occupational diseases is also the responsibility of employers as appropriate, the Office added the requirement for "criteria" for commuting accidents and suspected cases of occupational diseases.

In view of the substantial majority of responses which are in the simple affirmative, and the nature of the qualified responses, listed as "Other", the question appears as amended as Article 4 in the proposed Protocol.

Qu. 9 *Should the Protocol provide that the information to be included in the notification shall include, at least, information on:*

(a) the enterprise, establishment and employer;

(b) the injured person;

(c) the injury or disease; and

(d) the circumstances of the accident or, in the case of an occupational disease, any exposure to health hazards?

Total number of replies: 68.

Affirmative: 66. Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Spain, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Other: 2. Kuwait, Netherlands.

Australia. A base level of information to be provided in relation to accidents/incidents needs to be established. This system should ensure the information remains confidential to protect businesses and workers.

Barbados. A subparagraph should be added requiring information on the time absent from work.

Belgium. CNT: It is necessary to include this data in the notification of occupational accidents and diseases. However, since it is intended solely for collective usage, it should respect the principle of anonymity. The workers' organizations stress the importance of including in the notification, data concerning the correct functioning or the malfunctioning of the machines used by staff, which is also a source of occupational accidents. The employers' organizations argue for the simplification of the procedures and are therefore unable to support a proposal that does not appear to be relevant in terms of statistics.

Bulgaria. The information required should accord with that contained in the European Union's *European Statistics on Accidents at Work (ESAW) – Methodology* (2001 edition).

Chile. The minimum data required should be more clearly specified, point by point, e.g. about the enterprise and the worker.

Colombia. The minimum amount of information to be provided should be broadened to include areas such as the gender and age of the injured person.

Croatia. IOM: It would also be useful to obtain information about the branch of industry or economic activity, more details about an injury or disease, including the classification according to the International Classification of Diseases, and related health problems.
NIPH: For occupational diseases also include the length of the period of exposure.

Czech Republic. CMKOS: Add (e) measurements adopted to prevent repetition of accidents, and (f) signatures of persons involved in the investigation of the occupational accident.

Egypt. Add (e) the place where the accident occurred in the enterprise, and (f) the injured part of the body.

France. CGT-FO: The Protocol should distinguish between the administrative notification and the medical report, especially for occupational diseases. The medical report should be confidential and made available only to the medical profession. Subparagraph (c) should be strictly defined.

Gabon. Add (e) where the accident happened.

Jamaica. This is necessary to create statistical analyses which will show trends evolving, so that the competent authority can put preventive programmes in place.

Japan. NIKKEIREN: Yes.

Kenya. It is necessary to know the part of the body injured.

Kuwait. (d) There is no need for their inclusion.

Lebanon. (d) Yes. We suggest the addition of the following clauses in this context:
(e) the measures taken for the prevention of work accidents and occupational diseases;
(f) the responsibility of the worker for the injury.
A new clause should be added as well, concerning the responsibility of the worker for the immediate notification of the work accident and for communicating his deteriorating health conditions arising from what is thought to be an occupational disease.

Namibia. NEF: In addition the type of disease/accident and its cause should also be included.

Netherlands. Concerning the information to be included in the notification, we have some doubts as to effectiveness: it seems to us that in the case of occupational diseases, making the notification more anonymous would diminish the amount of under-reporting. In fact, in the Netherlands such a system of notification has been effective since November 1999. A characteristic of this system is the anonymity of both employee and employer. Data is collected on year of birth, gender, occupation, exposure characteristics and the economic activity of the employer (but not on the social security number and name and address of the employer). This ensures that the results are only useful at a higher level of aggregation.

New Zealand. Yes, these are minimum requirements. However, they are not sufficient. Other sub-classifications that should be included are:
(e) the enterprise, establishment and employer (industry and size of establishment/employer);
(f) the injured person (occupation, gender, age, identity);
(g) the injury or disease (diagnosis, severity);
(h) the circumstance of the accident or, in the case of an occupational disease, any exposure to health hazards (mechanism, activity, location, date); and
(i) outcome (death, incapacity, impairment, time off work, remained in job/left job).

Norway. (a) Yes, the enterprise, establishment and employer where the accident occurred or the disease was contracted. The notification from medical practitioners to the Directorate of Labour Inspection must include information on the occupation and the employer at the time of the injury/harmful exposure.

South Africa. BSA: Yes. The type of disease/accident and its cause should also be included.

Spain. UGT: The Protocol should also include information on the agent(s) responsible for the accident or disease, a description thereof, a standardized model of the injury, requisite medical treatment, existing prevention arrangements, and so on.

Sri Lanka. LJEWU: (a) Yes, but safeguarding the disclosure of the identity of the employer, as otherwise it would frustrate the purpose of the Protocol. The employer's name and identity can be left out, as can the name of the injured person or the victim of the accident. The reasons for this precautionary measure should be obvious.

Switzerland. UPS: Yes.
USS: Yes.

United States. USCIB: (a)-(d) No. The question presumes notification with each incident. At most the Recommendation should provide that the annual reporting include employer information, injured person, injury or disease, and severity of the injury or disease.

Office commentary

The Office accepts the value of the types of information suggested by the Government of New Zealand, particularly for the purposes of comparable statistical analysis when the accident or disease is not investigated. However, it believes that further definition is appropriate to a Recommendation rather than a Protocol and it draws attention to Question 15 which refers to the 1996 code of practice in which such detail is fully discussed.

It has not acted on the proposal to refer to the length of time absent from work as the notification will often, indeed usually, precede a return to work.

As the notification is required for dangerous occurrences as well, the corresponding words were included in Article 5(c) of the proposed text. With this addition of a reference to dangerous occurrences, a modification to add the words "if applicable" has been made in (b) to reflect the fact that a dangerous occurrence does not result in a person being injured.

The question, as amended, now appears in the proposed Protocol as Article 5.

National statistics

Qu. 10

Should the Protocol provide that the competent authority shall, based on the notifications and other available information, annually publish national statistics and analyses of occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents?

Total number of replies: 68.

Affirmative: 67. Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, Slovakia, South Africa, Spain, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Other: 1. Malta.

Austria. The inclusion of this point would be welcomed as a means of developing prevention.

Chile. It should be compulsory for the competent authority to send the published information to all members of the system that have reported such cases.

Colombia. In countries where there are no proper mechanisms for gathering and systematically organizing statistics, the ILO must provide technical assistance so that such mechanisms can be developed and set in motion.

Denmark. Danish Employers' Confederation (DA): It is a central element that the national and international data be processed at the national level on the basis of internationally recognized methods.

FTF: A Protocol should prescribe that the competent authority should publish national statistics and analyses of occupational accidents and occupational diseases based on the notifications of occupational accidents, occupational diseases and suspected cases of occupational diseases.

Estonia. Exclude commuting accidents.

Finland. Yes, with the exception that the Protocol should not deal with the recording and notification of dangerous occurrences.

In addition to the competent authority, another designated authority should perhaps be appointed to publish annual national statistics on occupational accidents and occupational diseases.

France. CGT-FO: The harmonization of statistical methods is desirable and addresses current problems arising in the transfer and comparison of data between States.

Greece. ESEE: Yes.

Hungary. Yes, except for the analysis of traffic accidents.
Employers: Yes, in accordance with the European directives.
Workers: Yes.

India. Yes, except for commuting accidents and suspected occupational diseases.

Republic of Korea. Yes, but dangerous occurrences and commuting accidents should be excluded.
KEF: Yes.
FKTU: Yes.
KCTU: Yes.

Kuwait. Yes, except commuting accidents.

Lebanon. It should be left to the competent authority to determine how the statistics and analyses of the occupational accidents and diseases should be published and the periodicity of such a publication, with an indication that this information might include the existing occupational diseases published by the Government and any other new diseases not listed.

Malaysia. Yes. However, the competent authority should be free as to whether or not to publish the annual statistics. The compilation of results will give an overview as well as an indication of the OSH status. Hence it will serve as a guide in respect of prevention strategies and action plans.

Malta. The publication of national statistics and the analysis of these should be left to the discretion of member States.

Mauritius. The responsibility of the competent authority should be clearly defined inasmuch as different bodies may deal with accidents and occurrences on the one hand and diseases on the other.

Mexico. Such statistics should be given to organizations of workers and employers and other interested bodies.

Namibia. NEF: Yes. NEF considers this to be the underlying purpose for collecting statistics. It is strongly recommended that it should be stipulated that the published information is up to date, say not older than 12 months.

New Zealand. Yes – with the reservations noted above in relation to commuting accidents. This would provide the basis for international comparative information.

Poland. PKPP: Yes, omitting the reference to "and, as appropriate, dangerous occurrences and commuting accidents".
OPZZ: Yes.

Portugal. The Protocol should require member States to identify the body responsible for producing statistical information.

Russian Federation. Yes. The question might refer to relevant Conventions.

Slovakia. Yes, with the exception of commuting accidents.

South Africa. Yes, but excluding "dangerous occurrences".

Spain. Yes, but excluding "dangerous occurrences".
UGT: In addition, consideration should also be given to the expediency of including statistics on incidents and of using mechanisms which, in accordance with the opportunities provided by modern technology, allow more immediate access to information. Statistical information should be supplied on a more frequent basis to complement the annual publication and analysis mentioned. Finally, the social partners should be granted access to and knowledge of the system and the information contained therein (as a logical guarantee of the protection of workers' personal information), subject to the same conditions and possibilities as the competent authority.

Sri Lanka. LJEWU: Yes.

Sweden. Yes, but see remarks under Questions 5 and 8.

Switzerland. UPS: Points 10 and 11 should be expressed in the conditional form, as they assume the existence of a mechanism for collecting statistics which is not necessarily very common at the international level.
USS: Yes.

United Arab Emirates. Yes. Data should be comprehensive in coverage and reflect reality. If partial, its adoption and dissemination may lead to erroneous impressions, and either incorrect overstatement or illogical underestimation of the subject.

United States. USCIB: Yes. There should be annual publication of the agreed accident and disease statistics but not in respect of commuting accidents.

Office commentary

Various responses from member States and organizations, while approving the annual publication of statistics as proposed in the question, maintain a consistent approach based on their national law and practice, by again asking for the omission of either dangerous occurrences or commuting accidents, or both. Unlike occupational accidents and diseases, these are categories of events to which the proposed article applies only as appropriate, and, as in its comments on previous questions, the Office considers that this qualification meets the expressed objections.

Several responses suggest that in some member States the publication of statistics is the responsibility of an agency other than the competent authority which receives notification of accidents and diseases. However, it is probable that the latter would arrange for the publication and supply the information, and accordingly an amendment of wording is not thought necessary by the Office.

Considering the constraints of federal States, and with a view to making the provisions consistent with those of the Labour Statistics Convention, 1985 (No. 160), the Office proposes the use of the words "statistics that are compiled in such a way as to be representative of the country as a whole" in place of "national statistics".

Reflecting the affirmative responses to this question, it appears as Article 6 in the proposed Protocol.

Qu. 11 *Should the Protocol provide that these statistics and analyses shall be established using classification schemes that are compatible with the latest relevant international schemes established under the auspices of the International Labour Organization or other competent international organizations?*

Total number of replies: 68.

Affirmative: 65. Australia, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Singapore, South Africa, Spain, Suriname, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Germany, Slovakia.

Other: 1. Austria.

Austria. Although the use of a compatible classification system is desirable, it would be difficult to implement, particularly since national systems are currently too diverse. It would not be possible to ratify the Protocol. If need be, this provision could be included in the Recommendation.

Belgium. CNT. The CNT accepts the ILO's initiative to improve data classification procedures. It affirms the need to maintain compatibility with statistical work carried out periodically by Eurostat and asserts the need to retain a certain coherence between the various methodologies used.

It also emphasizes that data gathering and compilation systems organized at these levels should not encroach upon each other and should not duplicate each other's work.

Bulgaria. Classification schemes should harmonize with the European Union's *European Statistics on Accidents at Work (ESAW) – Methodology* (2001 edition).

China. Ideally yes, but due to the large variations in the pattern of occupational diseases in the member States it will be very difficult to harmonize statistics. A certain flexibility should be allowed based on the national conditions of each country.

Denmark. Yes. For Europe it should be the Eurostat methodology that forms the basis for recording and statistics.

Finland. In the main, existing classification schemes should be applied and classification should be based on established practices. The Protocol should not contain any provisions on the implementation of new international classification schemes.

Germany. No. In view of the specific characteristics of the national systems the use of classification systems must remain within the field of competence of the individual States. This does not preclude the possibility of using international classification systems where they can be converted. As far as possible, national classifications should be conducted in a form that is compatible with the respective international classifications. A regulation of this nature is thus not suitable for a Protocol to the Convention; at most it is suitable for a Recommendation.

Greece. ESEE: Yes.

Hungary. Employers: Yes, in accordance with relevant European directives and European practice.
Workers: Yes.

Italy. Italy uses the European Union's *European Statistics on Accidents at Work (ESAW) – Methodology* (2001 edition) which allows a comparative analysis to be made for insurance purposes.

Lebanon. Yes, on the understanding that the ILO coordinates the standardization of the classification schemes with the other international specialized organizations in this field.

Namibia. NEF: In principle, working towards internationally compatible and comparable statistics is a laudable goal. Clarification is, however, required on the meaning of "classification schemes".

New Zealand. Yes; however, care must be taken to ensure that the schemes used are widely applicable and adaptable.

Portugal. There is a great disparity between ILO member States in respect of recording and notification and, hence, in statistical information. It would be useful if the Protocol were to specify the nature of the statistics and analyses to be compiled, so that individual States can then gather and process their statistics in a manner that is compatible with other States, thereby promoting the harmonization of occupational disease statistics.

Slovakia. No, include as a Recommendation.

South Africa. BSA: Yes, but clarification is required on the meaning of "classification schemes".

Spain. The use of an international classification scheme, allowing the statistics of the States signatories to the Protocol to be harmonized, is of great interest in being able to compare statistical data. However, it is a not insubstantial source of difficulties, given the different concepts of occupational accidents and diseases existing in the legislation of various States which, generally speaking, are unwilling to accept it.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: See comment on Question 10.
USS: Yes.

United States. USCIB: No. The form of this question is too vague. Moreover, the question requires reliance on the terms of unknown and undesignated international classification schemes. The classification scheme should be a part of the Recommendation.

Office commentary

The governments and the employers' organizations whose responses are recorded as negative believe that the compatibility of statistics and analyses dealt with in the previous question is a subject which is appropriate for a Recommendation rather than a Protocol. This is because of the specific characteristics of national classification schemes which will make compatibility difficult to achieve in practice. The great majority of answers are in the simple affirmative and those which add a comment do not convey the impression that this is likely to be a major concern.

Other responses contain a number of useful suggestions as to the international organizations whose classification schemes should be taken into account, such as the European Union's *European Statistics on Accidents at Work – Methodology* (2001 edition). The question, without amendment as to wording, appears as Article 7 in the proposed Protocol.

III. Content of a Recommendation

Qu. 12 *Should the Recommendation contain a preamble referring to the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, and the Employment Injury Benefits Convention and Recommendation, 1964.*

Total number of replies: 70.

Affirmative: 68. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 1. Czech Republic.

Other: 1. United Kingdom.

Argentina. It would be useful to include in the proposed Recommendation a reference to previous instruments on safety and health issues and occupational injury benefits to provide a reference framework for the action to be taken.

Belgium. CNT: It does not intend to oppose the possibility of drawing up a Recommendation. Should this be adopted, it approves in general the proposals of the questionnaire regarding the substance of the instrument and refers in parallel to the general comments made on this subject under Part I regarding the form of the instrument.

Brazil. Refer also to specific Conventions, such as those relating to construction, mines and agriculture.

Colombia. ANDI: There is no need for a preamble.

Czech Republic. No, unnecessary.
The workers' organizations reply in the affirmative.

Greece. Yes, but without special reference to the Conventions and Recommendations mentioned in the questionnaire.
ESEE: Yes.

Japan. NIKKEIREN: No. The reference in the preamble to Convention No. 155, Recommendation No. 164, Convention No. 161, Recommendation No. 171, and Convention and Recommendation No. 121, may negatively affect cooperation concerning the aforementioned Conventions from countries that have not yet ratified those Conventions. There are significant differences among countries with regard to the actual circumstances surrounding the industrial structure, occurrences of occupational accidents and occupational diseases, occupational safety and health measures, and the like. The provision, therefore, should enable a flexible response in accordance with the actual circumstances in each country.

Mexico. The most up-to-date instrument should be referred to.

Namibia. NEF: Yes, but refer to the response to Question 3.

New Zealand. Yes, but care should be taken not to suggest that the Recommendation is dependent on these instruments.

Singapore. NTUC: Yes.

South Africa. BSA: Yes, but see answer to Question 3.

Sri Lanka. UEWU: Yes.

Switzerland. UPS: No, the Recommendation should be an autonomous instrument which can help promote safety and health at work.
USS: Yes.

Syrian Arab Republic. Yes. We suggest adding to the preamble of the Recommendation, the recommendations adopted by the International Conference of Labour Statisticians, particularly the recommendations of the Sixteenth ICLS.

United Kingdom. Any preamble should be clear about the aim of the potential instrument – the emphasis should be on identifying causes and establishing preventive measures.

United States. USCIB: No. The Recommendation should only refer to the Occupational Safety and Health Convention, 1981, and the Employment Injury Benefits Convention, 1964.

Office commentary

A substantial majority of responses were in an unqualified affirmative. Those which added comments were divided between those which thought a preamble to a Recommendation to be unnecessary, or ill-advised, and those which argued for an

extension of the wording to include a reference to instruments other than those mentioned, such as the Conventions dealing with safety and health in specific industries, such as construction, mining and agriculture.

A modification to highlight the list of occupational diseases was made as it appears in the preamble of the proposed Recommendation.

Qu. 13 *Should the preamble have regard to the need to strengthen recording and notification procedures for occupational accidents and occupational diseases with the aim of identifying their causes, establishing preventive measures, promoting the harmonization of recording and notification systems and improving the compensation process in the case of occupational accidents and occupational diseases?*

Total number of replies: 70.

Affirmative: 67. Argentina, Australia, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Republic of Korea, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Czech Republic, United Kingdom.

Other: 1. Austria.

Argentina. Procedures for recording and notification should be constantly reviewed and reinforced. A high-quality database is an essential tool. Countries should consider the need to harmonize their systems so that data is comparable.

Australia. Yes. The preamble to the Recommendation should clearly outline any objectives of the instruments and any means by which this is required to be achieved. For this reason the need to strengthen recording and notification procedures must be communicated to promote the objectives of identifying the causes of occupational accidents and diseases, establishing preventative measures, and establishing a system that allows for straightforward international comparative analysis.

Austria. See reply to Question 11, in favour of a Recommendation. A weaker expression than "need" should be used with regard to the harmonization of recording and notification systems. The international community should endeavour to take steps towards harmonization.

Barbados. The compensation process should be left to the discretion of individual member States.

Burkina Faso. Recording procedures should not be made more cumbersome.

Chile. The preamble should also cover the need to reinforce monitoring systems to ensure they are appropriate for the hazards to which workers are exposed.

Czech Republic. No, unnecessary.

KZPS: It is not clear what "need to strengthen recording and notification procedures" means. Increasing administration does not automatically meet the intention.

The workers' organizations reply in the affirmative.

Egypt. FEI: Without prejudice to national legislation.

Ghana. GEA: Yes.

Germany. Harmonization of recording and notification systems will probably only be possible if comparable systems exist and/or are built up accordingly. The preamble should therefore go into the different recording systems and the resulting specificities (coverage of recording systems, extent of reporting) and should point out that the data from the various recording systems are not comparable.

Greece. Yes, but we do not agree with the reference to "improving the compensation process in the case of occupational accidents and occupational diseases"

ESEE: Yes.

Italy. CONFINDUSTRIA: As for the recording and notification of occupational accidents and diseases, there must be no new instruments (such as a Protocol to ILO Convention No. 155 of 1981) if, as proposed in the ILO report, such instruments would involve placing further obligations and responsibilities on employers to: (a) maintain a register or log of occupational diseases and suspected occupational diseases; (b) log "incidents" where no personal injury was incurred.

With regard to (a) above, it should be noted that, unlike the recording of accidents – introduced in Italy late in 1958 and updated through Legislative Decree No. 626/1994 and subsequent amendments – there are difficulties with the idea that employers should gather and log detailed data on occupational diseases and even more so with regard to those suspected of originating in occupational activities.

Objectively, given the enormous range of technology-related ill health and the long periods of latency or incubation, the multifaceted origins and sources, the varying impact of work as a direct and effective existing cause or merely as an exacerbating factor, it would be problematical to undertake such a task.

As for (b) above, in Italy, if such a specific stipulation were introduced whereby the employer were duty-bound to record systematically any "incidents" that involved no special personal injury aftermath, it would mean wasted efforts as far as the installation of new machinery/plant is concerned, since these already have to meet statutory requirements; pointless duplication of effort because particularly serious accidents or emergencies already have to be reported; and an unjustifiable burden on enterprise activity with regard to accidents of marginal importance.

Japan. NIKKEIREN: The phrase "the need to strengthen" should be changed to "the need to promote". As far as compensation is concerned, Convention No. 121 already exists. This Recommendation, therefore, should only provide for the notification and recording of occupational accidents and diseases.

Kenya. It will form a comprehensive approach for management.

Republic of Korea. KEF: No.
FKTU: Yes.
KCTU: Yes.

Singapore. NTUC: Yes.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: This point should be limited to the essential objectives of identifying causes and establishing preventive measures. The last two points (harmonizing recording systems and compensation) should not be included in the preamble as they could be an impediment to application for many countries. They could be the subject of separate Paragraphs.

USS: Yes.

United Kingdom. It is not appropriate to concentrate on the aim of promoting the harmonization of recording and notification – practices vary widely in individual countries. This is particularly relevant in respect of occupational diseases, where, in practice, individual countries' definitions reflect administrative arrangements rather than being based on strictly scientific criteria.

It would not be appropriate to include "commuting accidents" within the scope of a Recommendation – not all countries collect such data. For example, we have no plans to extend our legislation to cover such incidents.

The United Kingdom Government would not countenance being bound by any international agreement on compensation for industrial accidents and diseases that would:

(i) override or require change to current national legislation;

(ii) impose definitions of accidents and diseases which were different from those used in the United Kingdom benefits system (or which could affect the national system of recording accidents and diseases);

(iii) remove from national jurisdiction and the advice of a national body of experts what diseases were prescribed and eligible for industrial compensation.

United States. USCIB: No. The question is too broad for the reasons discussed in the answers to Parts I and II.

Office commentary

The question relates only to occupational accidents and diseases and it is not thought necessary to amend the wording, as suggested, to take account of commuting accidents and incidents.

The adverse comments by the Governments of Barbados, Greece and the United Kingdom and the Swiss employers' organization on the stated link between recording and notification procedures and compensation processes is noted. However, such a link exists in many member States and such compensation is the subject of the Employment Injury Benefits Convention and Recommendation, 1964 (No. 121), in which the first ILO list of occupational diseases appeared as Schedule I of the Convention. There is specific mention of these instruments in Questions 12, 14 and 17.

Several responses can be read as acknowledging the need to strengthen procedures and so the proposals of the Government of Austria and the Japanese employers' organization to alter this part of the wording have not been followed. There is understandable concern that the strengthening of procedures should not be read simply in terms of administration.

For these various reasons, and having regard to the very substantial majority of affirmative responses, the wording of the corresponding part of the proposed preamble remains unaltered and appears as such in the proposed Recommendation.

Should the preamble have regard to the need to review and update the list of occupational diseases in Schedule I of the Employment Injury Benefits Convention, 1964? **Qu. 14**

Total number of replies: 68.

Affirmative: 65. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Greece, Hungary, India, Indonesia, Israel, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Czech Republic, Denmark.

Other: 1. Italy.

Australia. Yes. Developing an ILO list for data comparison across international jurisdictions would be useful. If the ILO list is to be linked to compensation for injury then it is important to note that in some Australian states accident compensation legislation takes a broader approach to the definition of occupational illnesses and diseases. For example, in the State of Victoria legislation recognizes that all diseases/conditions have the potential to arise through and in the course of employment and are, therefore, potentially compensatory and not limited to a list.

Brazil. CNA, CUT, FS, CGT, SDS, CONTAG: Yes.
CNI, CNF, CNT: No, since a Protocol alone was opted for, and since the list of occupational diseases must be the responsibility of each country.

Chile. Such reviews should consider the expertise available in other international organizations such as the World Health Organization.

Croatia. IOM: Yes. Progress in technology and industry results in new hazards at work and new occupational and work-related diseases.

Czech Republic. No, unnecessary.
KZPS and the workers' organizations reply in the affirmative.

Denmark. No, the need to review and update the list of occupational diseases should not be included in the preamble, but could be mentioned elsewhere.

Finland. Yes. However, the list of occupational diseases carrying entitlement to compensation can be updated regardless of the Recommendation.

Ghana. GEA: Yes.

Greece. See comments on Question 17.
ESEE: Yes.

Italy. This list of occupational diseases does not indicate the specific tasks or processes that cause the disease. Such a lacuna could mean that workers would be obliged to prove the aetiological link between the illness and the work, which places them at a great disadvantage.

The list of occupational diseases in force in Italy states the jobs and maximum time limit when the worker is not obliged to show evidence of the causal link, but merely prove that he/she performed those duties over the given period. The Italian system recognizes both "listed" and "unlisted" diseases. As far as the unlisted diseases are concerned, the worker must provide the aetiological link.

CONFINDUSTRIA. The report mentions the need to amend the list of occupational diseases as outlined in Article 31 of the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121). This would require that the review of the list be placed on the agenda of the International Labour Conference and that it be adopted by a two-thirds majority – a procedure already used in 1980. However, this is inconsistent with European Union (EU) practice where, as is clear from the report itself, Commission Recommendation No. 90/326/EEC provides for a European schedule of occupational diseases which, aside from the diseases and substances included in the Schedule to ILO Convention No. 121, covers a great many other occupational diseases that have been recognized as such and a subsequent list of diseases that are suspected of being occupational in origin.

Japan. NIKKEIREN. No. The provision should enable a flexible response in accordance with the actual circumstances in each country.

Morocco. CGEM. Yes, if this does not conflict with the current practice.

Namibia. NEF. Yes, but we would urge that the consultation process underpinning any review should be comprehensive and should always include those countries (including the employers' representatives) directly affected by any amendments to the list.

Norway. Yes. We are in doubt as to whether this item should be included in the preamble. We see the need to review and update the list, and a straightforward method of updating needs to be arrived at.

Peru. This list is now out of date owing to the development of technology and the use of new chemical substances that have given rise to new occupational diseases, which has led many countries to revise regularly their national lists of occupational diseases to extend or update them.

Portugal. The Recommendation should specify a "minimum" list of occupational diseases.

Romania. Technologies now available for the identification of new risks require the list of occupational diseases to be updated.

Singapore. NTUC. Yes.

Slovakia. Yes. The process of consolidating criteria for identifying occupational diseases as well as the need to revise and update the list of occupational diseases is lagging behind and may represent a threat for the harmonization of systems in ILO member States.

South Africa. BSA. Yes, but the consultation process underpinning any review should be very comprehensive and should always include those countries (including the employers' representatives) directly affected by any amendments to the list.

Sri Lanka. LJEWU. Yes.

Sweden. Yes. The statistical term "work accident" is relatively well-defined, but this is far from being the case with "occupational diseases". In this latter regard, national statistical systems relate to current rules on compensation for employment injuries.

Switzerland. UPS. This point should not be included in the preamble. It should be the subject of a separate Paragraph.

USS. Yes.

United States. USCIB: Yes, on a periodic basis by the International Labour Conference, otherwise it becomes a dated document.

Office commentary

This question, which relates only to the preamble to the proposed Recommendation, should be read in relation to the substantive provisions which appear in later questions. As the Government of Peru observes, national lists of occupational diseases, which are often related to issues of compensation as well as recording and notification, have in practice been revised regularly in the light of increasing knowledge.

It is a common view that the list of occupational diseases needs to be reviewed and updated. With a view to reflecting more accurately the mandate given by the Governing Body, new wording was introduced underlining the need for a simplified mechanism for updating the list of occupational diseases.

The question appears in the proposed Recommendation as part of the preamble.

Should the Recommendation provide that in implementing the provisions of the proposed Protocol the competent authority should take due account of the 1996 code of practice on the recording and notification of occupational accidents and diseases and other codes of practice or guides which may in the future be established by the International Labour Office? **Qu. 15**

Total number of replies: 71.

Affirmative: 64. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lithuania, Malaysia, Malta, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 3. Czech Republic, Denmark, Japan.

Other: 4. Lebanon, Spain, Germany, Greece.

Australia. Australian Chamber of Commerce and Industry (ACCI): Yes, as to 1996 code of practice. No, as to "other codes of practice or guides".

Barbados. The BEC question the need to include future codes to be established by the ILO.

Bulgaria. As far as possible and after observing national priorities and traditions.

Colombia. ANDI: Is not in favour of ILO codes of practice being included.

Cyprus. The competent authority shall have the right to take due account of other international codes of practice and guides in addition to the ILO codes or guides.

Czech Republic. No, unnecessary.
KZPS and the workers' organizations reply in the affirmative.

Denmark. No, for Europe it should be the Eurostat methodology that is the basis for recording and statistics and not the ILO code of practice from 1996. For occupational accidents this was accepted by all member States at the Sixteenth International Conference of Labour Statisticians in 1998.

Ecuador. This should be included as a procedural or informative reference but not as a binding one.

Egypt. FEI: Add the final words "after submission to member States".

Finland. Yes, unless they conflict with EU practices.

France. CGT-FO: This is desirable but the reference to external texts seems to be of doubtful "legality", despite its voluntary nature.

Ghana. GEA: Yes.

Germany. Yes, but we are against any general extension to collections of guidelines that are elaborated by the ILO in the future.
BDA: We cannot be in favour of taking account of future instruments, since there is no way of knowing what their content will be.

Greece. Not necessary.
ESEE: Yes. We have reservations as to future guides that might be established by the ILO.

Honduras. COHEP: We do not agree to the inclusion of future ILO codes unless they are the result of tripartite consultation.

Japan. No. Conventions and Recommendations adopted by the ILO should primarily aim at the protection of employees, in spite of the provision shown in the 1996 code of practice which requires the extension of the coverage of reporting and notification of occupational accidents to the self-employed. The self-employed themselves are the ones who are able to secure their occupational safety and health, and therefore it would be appropriate to leave the responsibility to themselves.
NIKKEIREN: No. With regard to codes of practice or guides that the ILO may adopt in the future, it is necessary to establish a tripartite meeting of experts, and conduct specific discussions.

Lebanon. It seems that the proposed Recommendation will be linked to, or complement, the proposed Protocol which will be linked, in turn, to Convention No. 155, and that there is a possibility that the proposed Recommendation will be again linked to Schedule I annexed to Convention No. 121. This means that the proposed Recommendation will not be "independent" in the proper sense of the word.
We wonder whether there are other precedent examples among international labour standards having such an overlap and interdependence and whether the ratification of the Protocol would mean abiding by the provisions of the proposed Recommendation linked to the Protocol, knowing that the Recommendation represents guidelines for national policies.
We believe that the Recommendation should be independent and complemented by the list of occupational diseases contained in Annex B of the code of practice established by the ILO in 1996.

Mexico. These provisions should be regarded only as a basis, without prejudice to the possibility of more advanced provisions in national laws.

Morocco. CGEM: Yes, taking national legislation into account.

Namibia. NEF: The 1996 code is not necessarily the only guideline that should be taken into account and it would propose that the provision rather be made that the competent authority should "note" the 1996 code. Furthermore, NEF would caution against a reference to ILO codes that do not yet exist.

New Zealand. Yes, codes of practice promote good practice, but may be too precise to allow diverse members to follow precisely, therefore "due regard" is sufficiently flexible.

Norway. NHO: We may agree to due account being taken of the 1996 code of practice on the recording and notification of occupational accidents and diseases, but we oppose such account being taken of other codes of practice or guides which may in the future be established.

Portugal. The Recommendation should specify the body responsible for taking up the practical directive of the ILO in connection with the recording and notification of occupational diseases.

Singapore. NTUC: Yes.

South Africa. BSA: The 1996 code is not necessarily the only guideline that should be taken into account and it would propose that the provision rather be made that the competent authority should "note" the 1996 code. Furthermore, BSA would caution against a reference to ILO codes that do not yet exist.

Spain. This question appears to be intended for cases in which the State has chosen option 2(a), in relation to the choice of the form of instrument, i.e. a Protocol and a Recommendation. Under that item, we chose 2(b), a Recommendation.

CEOE/CEPYME: No response required as a Recommendation is chosen.

UGT: Yes.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: Our basic tenet is that the instrument should be a Recommendation, not a Protocol. It might provide that the 1996 code of practice should be taken into account. However, there should be no reference to "other codes of practice" which have not yet been given tripartite approval.

USS: Yes.

United States. USCIB: No. Due account of the 1996 code of practice may be appropriate, but it would be very inappropriate to take into consideration future codes whose context and basis for development are as yet unknown.

Office commentary

The reservations or objections expressed in the comments on this question are mostly on codes of practice or guides which may in future be established by the ILO. On this point, the Office underlines the importance of making reference to future codes as the existing code may need review and updating to reflect future developments in member States. Some governments and organizations state their opposition in absolute terms while others object only to such codes or guides which are not the outcome of tripartite consultation. The Office reiterates the permissive wording of the question which requires no more than that due account be taken of such codes and guides – the suggested substitution of alternative words to "due account" are thought to represent distinctions without a difference.

The 1996 code of practice, which represents current thinking, was drawn up by a meeting of experts with equal numbers appointed following consultation with the

Government, Employers' and Workers' groups of the Governing Body, and future codes are likely to follow a similar pattern.

The majority of responses are in the simple affirmative and the question appears in the proposed Recommendation as Paragraph 1.

Qu. 16 *Should the Recommendation provide in an annex the list of occupational diseases set out in Annex B of the 1996 code of practice?*

Total number of replies: 68.

Affirmative: 60. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, Gabon, Hungary, India, Indonesia, Israel, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Syrian Arab Republic, Thailand, Turkey, United Arab Emirates, Yugoslavia.

Negative: 5. Czech Republic, Denmark, Germany, Italy, Ukraine.

Other: 3. Spain, Greece, Sweden.

Argentina. Were the list to be binding, countries would find it difficult to ratify or adopt the standard.

Australia. ACCI: Further consideration is required.

Colombia. It must be updated.

ANDI: The list of occupational diseases set out in Annex B of the 1996 code of practice is unacceptable in its present form. The list should be carefully updated.

Czech Republic. No, unnecessary.

CMKOS: Yes.

Denmark. No, the list should be more comprehensive and follow the list published in the European Commission's Recommendation of 22 May 1990 with subsequent amendments.

Finland. A reference list of occupational diseases and the criteria under which a disease is recognized as an occupational disease is a useful annex. However, the list of occupational diseases included in the Recommendation should be reviewed and updated by the member States.

Ghana. GEA: Yes.

Germany. No. The inclusion of an annex giving a list of occupational diseases can be dispensed with, since the inclusion of the passage from Question 15 already ensures that the list of occupational diseases will be taken into account.

BDA: No, but if an annex is nevertheless included, Annex B must first be reviewed by a tripartite body.

Greece. Not necessarily.

Honduras. COHEP: No, there should be tripartite consultation at national level.

Hungary. Yes, it is basically the same as the Hungarian list.
Employers: Yes, but in compliance with the relevant European directives.
Workers: Yes.

India. A committee of experts should be formed critically to examine the proposed list of occupational diseases before it is accepted. The national list of occupational diseases should be formulated on the basis of the international list keeping in view national conditions and practices.

Israel. Yes. See comment on Question 17 concerning the list of diseases.

Italy. See comment on Question 14.

Japan. NIKKEIREN: No. As the situation surrounding the occurrence of occupational diseases varies greatly depending on the country, the list of occupational diseases set out in Annex B of the 1996 code of practice should be thoroughly examined by a tripartite meeting of experts before it is quoted for some other purpose.

Kenya. The list should not be final as far as compensation is concerned. Diseases not on the list may be of occupational origin.

Mexico. It should not be seen as limiting national legislation.

Namibia. NEF: The list should be considered carefully and amended, as appropriate, by a representative tripartite committee of experts, on the understanding that sufficient time would be allowed for very wide consultations before the list is finalized. Refer also to the response to Question 14 above.

Netherlands. This list illustrates progress in the field as compared to the 1964 list.

Norway. Yes. We can see that it would be an advantage for the Recommendation to contain the list of occupational diseases set out in Annex B of the 1996 code of practice, but we would at the same time stress that the list is not complete (closed). We believe it is important for a note to be included in the list stating that the list should not be regarded as complete (closed). When the list is used in a concrete case, it must be possible to supplement it with any recently acquired knowledge.
NHO: No. This list needs careful examination before being considered for adoption as an annex to the proposed Recommendation. It cannot be accepted as it stands.

Pakistan. Employers' Federation of Pakistan (EFP): Proposes that the list in the proposed instruments be finalized with comprehensive tripartite consultation prior to next year's session of the International Labour Conference. The Government supports this proposal.

Portugal. As in Question 14, the Recommendation should specify a "minimum" list of occupational diseases.

Singapore. NTUC: Yes.

South Africa. BSA: The list should be considered and amended, as appropriate, by a representative tripartite committee of experts, on the understanding that sufficient time would be allowed for very wide consultations before the list is finalized. Refer also to the response to Question 14 above.

Spain. Although the structure of the lists of occupational diseases, i.e. in Spain and that of the 1996 code of practice cited, is similar, inequalities are observed in sections. These occur both in the way in which occupational diseases are described and in the type of occupational diseases included in each section.
Although both provisions basically include the most important occupational diseases, they are not specifically established in all the groups, depending, inter alia, on the frequency with

which diseases occur in the different sectors, the importance attached to the types of diseases based on the severity of the problem to which they give rise in terms of occupational safety and health, and so on.

Our regulations will follow those that are eventually adopted within the European Union (EU). It should be pointed out that work is currently being done within the EU to update the European list of occupational diseases, a process which will probably involve adaptations of the text of the European Commission's Recommendation of 22 May 1990, relating to the adoption of a European schedule of occupational diseases. Until such time as the final result of this work on the European list of occupational diseases is known, it is difficult to make any observations on the subject.

UGT: Yes, but we would prefer the code of practice to be more binding than a Recommendation.

Sri Lanka: LJEWU: Yes, it would be in the best interests of member States.

Sweden: Both the revised ILO list of occupational diseases appended to Convention No. 121 (Appendix III to Report V(1)) and the list published in 1996 (Appendix IV) are, however, outdated, illogical and hard to understand. A list of occupational diseases must out of necessity be updated quite frequently, in response to new research findings. The best way of dealing with this, therefore, is by having a separate list which can be updated at — we suggest — five-yearly intervals.

Switzerland: UPS: The list set out in Appendix IV of Report V(1) should not present a problem for Switzerland. However, its inclusion in the Recommendation should be subject to an international tripartite evaluation.

USS: Yes.

Turkey: Yes, it is the only list of occupational diseases which is internationally recognized.

United States: USCIB: Yes.

Office commentary

The list of occupational diseases set out in Annex B of the 1996 code of practice represents the most recent list to be published at this point in time. The only alternative list referred to in the responses to this question substantially pre-dates it. The reservations expressed as to the inclusion of the list in an annex to the Recommendation are substantially on the grounds that it should be updated. The need for regular review and updating is acknowledged in Question 18, but it is not practicable to summon a meeting of experts and have the conclusions approved by the Governing Body before this proposed Recommendation comes to be considered.

Thus, if a list of occupational diseases is to be annexed to the Recommendation, which a large majority of the responses favour, the 1996 list is the obvious choice. The Office has, therefore, included in the proposed Recommendation an annex containing a list of occupational diseases as set out in Annex B of the 1996 code of practice.

Qu. 17 *Should the Recommendation provide that the competent authority should formulate, by methods appropriate to national conditions and practice, and by stages as necessary, a national list of occupational diseases for the purposes of recording, notification and compensation and that:*

(a) this list should comprise, at least, the diseases enumerated in Schedule I of the Employment Injury Benefits Convention, 1964; and

(b) the list of occupational diseases annexed to the Recommendation should be used for further developing and updating the national list of occupational diseases for recording, notification and compensation purposes?

Total number of replies: 68.

Affirmative: 55. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, Gabon, India, Indonesia, Italy, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lithuania, Malaysia, Malta, Mauritius, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Germany, Lebanon.

Other: 11. Canada, Chile, China, Ecuador, Eritrea, Greece, Hungary, Israel, Mexico, Panama, Sweden.

Australia. Commonwealth legislation does not list specific diseases for notification. Diseases can be, and have been, notified as dangerous occurrences and as serious personal injuries. There are specific provisions, however, for employees of the Commonwealth or a licensed corporation. Yes.

Brazil. CNI, CNF, CNT. (b) The Ministry of Health (MS) adopts a fairly wide-ranging list of occupational diseases without resorting to tripartism, so it is questionable.

Canada. (a) The reference to Annex B of the ILO 1996 code of practice in Question 16, which is the most up-to-date and comprehensive list, is appropriate. To avoid confusion and facilitate updates, subparagraph 17(a) should refer to the same text and not to Schedule I of the Employment Injury Benefits Convention, 1964 (No. 121).

Chile. The list should be put to greater use than is stated. It could also be used for the purpose of prevention, training, monitoring and specialist medical treatment. The list in Schedule I of the Employment Injury Benefits Convention, 1964 (No. 121) is, in the light of today's knowledge, very limited. A more comprehensive reference point is needed to include at least some diseases deriving from psychosocial and ergonomic factors.

China. Yes to (b).

Colombia. Each country's internal classification must be observed.

ANDI. No. The Recommendation should provide that the competent authority, in accordance with national conditions and practice, should be responsible for drawing up a list of occupational diseases after consultation with employers' and workers' organizations. The Recommendation should set no parameters for the adoption of a national list of occupational diseases.

Czech Republic. OSPZV: No to all.

Ecuador. It is important that a national list of occupational diseases be drawn up. However, it is not reasonable that a minimum number of diseases be specified such as those enumerated in Schedule I of the Employment Injury Benefits Convention, 1964 (No. 121), as each country has its own unique characteristics and working conditions, which give rise to a different incidence of occupational diseases.

Eritrea. We observe a contradiction because on the one hand it authorizes the competent authority to formulate, by methods appropriate to national conditions and practice, and by stages as necessary, a national list of occupational diseases for the purpose of recording, notification and compensation and on the other hand it requires the list to comprise, at least, the diseases enumerated in Schedule I of the Employment Injury Benefits Convention, 1964 (No. 121). So we comment that at least the Recommendation should provide a clause stating the gradual introduction of the list of international standards.

Finland. Revising the list of examples of occupational diseases at national level, Finland, as a European Union Member State, should take account of EU recommendations on occupational diseases.

France. CGT-FO: This is a desirable measure which, in a Recommendation, has a much more limited scope. However, it is not certain that according such importance to the listing system will be enough to promote the recognition of occupational diseases.

Germany. The additions made in subparagraphs (a) and (b) should be deleted since they affect national law.

BDA: (a) Yes. (b) No. See comment on Question 16.

Ghana. GEA: Yes.

Greece. (a) and (b) Not necessarily. Greece takes into consideration Schedules I and II of European Commission Recommendation 90/326/EEC, which generally meets the requirements of the ILO schedules, and further updates of the occupational diseases list will take place according to the directives of the European Union.

Honduras. COHEP: (b) See response to Question 16.

Hungary. We would prefer a list of a higher standard, the list of 1964 contains too few diseases, and it is outdated.

Employers: Yes.

Workers: Yes, it has to be updated every five years.

India. See response to Question 16.

Indonesia. APINDO: It is for the national authority to decide or not.

Israel. We are of the opinion that the list of occupational diseases has to link the disease with an agent at the workplace, which is known to be a potential cause of the disease. This is particularly relevant as far as occupational cancers are concerned, so as to avoid the impression that *any* cancer could or should be recognized or acknowledged due to exposure to a cancerous agent. We therefore propose that there should be a preamble to the whole list (and not only occurring in specific paragraphs) as follows:

> "The diseases are recognized when a direct link between the exposure of a worker to an agent and the disease suffered is established, or when established in national legislation."

Jamaica. (a) Yes, but some developing countries may not be troubled by these diseases because the relevant industries/occupations are not active in those countries.

Japan. NIKKEIREN: We are opposed to including compensation as one of the purposes of formulating a list of occupational diseases. With regard to compensation, Convention No. 121

already exists. This Recommendation, therefore, should only provide for the notification and recording of occupational accidents and diseases.

(b) As the situation surrounding the occurrence of occupational diseases varies greatly depending on the country, the list of occupational diseases annexed to the Recommendation should simply serve as a reference for member countries.

Republic of Korea. KEF: No to (a), yes to (b).
FKTU: Yes.
KCTU: Yes.

Kuwait. Yes, provided it is done in accordance with national practice.

Lebanon. It should be left to the country to decide what diseases should be included.

Mexico. We have not ratified the instrument in question as our national legislation provides for a more comprehensive classification of diseases than Schedule I.

Namibia. NEF: Agrees on the understanding that its response to Questions 14 and 16 above is supported and adopted and provided that it is made very clear that not all the listed occupational diseases will necessarily be eligible for compensation in all countries.

New Zealand. Yes – this provides a progressive means for the development of national recording, notification and compensation that is flexible and allows for differences in the national conditions and the development of knowledge about occupational diseases. However, it needs to be made clear that in (b) the purpose is for members to make use of the list, rather than be bound by it, as members will have very different circumstances, which may not be reflected in the diseases listed.

Norway. NHO: The International Labour Office should convene a central-level, small-scale tripartite meeting ahead of the committee stage/proceedings for the purpose of drafting such a list. This should inspire a great deal of confidence.

Panama. (a) No. (b) Yes, the national list should be reviewed and updated regularly.

Portugal. Statistical information should also be produced on the frequency and type of occupational disease by sector.

Singapore. NTUC: Yes.

Slovakia. (a) Yes. The list should be amended on an ongoing basis, its validity should be linked to a transition or agreed time period for internal forensic reasons.
(b) In the first stage, no; after expiry of a parallel phase in national legislation, yes.

South Africa. BSA: (a) Yes. (b) Yes, on the understanding that its response to Questions 14 and 16 above is supported and adopted and provided that it is made very clear that not all the listed occupational diseases will necessarily be compensatory in all countries.

Spain. CEOE/CEPYME: Yes, but the list referred to in (b) should only be used for this purpose.

Sri Lanka. UJEWU: Yes.

Sweden. The ILO Committee recalls that Article 8 of Convention No. 121 points to various possibilities. Question 17 relates only to alternative (a), possibly to alternative (c) as well. A list can be a reasonable minimum level for countries which have not made much headway, but a general definition of occupational injury transcending the list as per Article 8(b) will improve the possibilities of obtaining input data which can be applied for preventive purposes. There must be alternatives which, over and above a set list, open the way to the recognition of other occupational diseases as well.

Switzerland. UPS: See comment on Question 16. The list in Appendix IV should not be published as an annex to the Recommendation without a prior tripartite examination.

USS: Yes.

Syrian Arab Republic. Yes, provided that the list of occupational diseases is limited to occupational diseases included in the national list of occupational diseases, so that specific statistics are published separately, and reference should be made to the possibility of establishing a separate list for other diseases which may be work-related and publish statistics thereon.

United States. USCIB: No. Given the relatively low number of ratifications of Convention No. 121 and the age of the list, which is over 37 years old, it would be inappropriate to include the list in Schedule I or those annexed in the related Recommendation.

Office commentary

There is a substantial majority of unqualified affirmatives to the question. Beyond these the responses raise, primarily, the relationship between national lists and those referred to in subparagraphs (a) and (b) of the question. A few replied that such references to international lists should be deleted.

The Office would emphasize that in formulating a national list the competent authority is restricted only as to a minimum, that is the diseases listed in Schedule I of the 1964 Convention which was amended in 1980. No problem is foreseen in the competent authority going beyond this, as the Government of Mexico indicates is the case. The ability to formulate a list by stages as necessary further widens the discretion conferred on the competent authority. That a national list contains a reference to diseases not yet encountered in that member State, as mentioned by the Government of Jamaica, is not seen to present a problem.

There is mention of the need for reconciliation with regional lists, such as that of the European Union, but this is seen by the Office as creating a potential problem only if the 1964 Convention list, as amended, contained diseases absent from regional lists, and there is no evidence that this is so.

The suggestion by the Government of Israel to introduce a preamble to the list of occupational diseases appears to the Office to be met by the scope of the term "occupational diseases" in Question 5. It is a point that could also be considered by a meeting of experts.

The Office agrees with the Government of Chile as to the uses to which a list of occupational diseases may be put, or to which its adoption might lead, which are mentioned in the preamble, but considers that such detail as is suggested is inappropriate in a Recommendation and would lead to a loss of focus. Now altered to refer to the 1980 amendment to Schedule I of the Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), the question as worded now appears as Paragraph 2 in the proposed Recommendation.

Qu. 18 *Should the Recommendation provide that the list of occupational diseases annexed to it should be regularly reviewed and updated through meetings of experts or other means as authorized by the Governing Body of the International Labour Office, and that upon approval by the Governing Body an updated list of occupational diseases will replace the list annexed to the Recommendation?*

Total number of replies: 69.

Affirmative: 65. Argentina, Australia, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Ecuador, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Czech Republic, Germany.

Other: 2. Austria, Lebanon.

Argentina. One or several causal relationships can be shown to exist between the risk agents present in the working situation and workers' ill health.

Australia. It is also suggested that consultation with other stakeholders is undertaken and sufficient notice of changes given to allow for changes in reporting systems.

Austria. In principle, a review and update of the list of occupational diseases would be welcomed. However, any update of the list should involve all member States of the ILO. This is not guaranteed through a decision of the Governing Body. Either the list should be constantly reviewed by the International Labour Conference or, as a minimum, the opinions of all member States should be obtained on a new list before the International Labour Office presents a final proposal to the Governing Body.

Brazil. CNI, CNF, CNT: No, see the comment on the previous question.

Colombia. ANDI: There should be no list of occupational diseases annexed to the Recommendation.

Croatia. IOM: Regular revision of the list of occupational diseases set out in Annex B of the 1996 code of practice is also needed.

Czech Republic. CMKOS and KZPS: Yes.

Finland. National practices and the revision of EU recommendations have shown that about ten years is an adequate interval for updating the list of occupational diseases, at least in member States such as Finland, using what is known as a mixed system (i.e. an indicative list and general criteria jointly).

France. CGT-FO: This measure is essential for the utility of the Recommendation.

Ghana. GEA: Yes.

Germany. No. It is in principle appropriate to review and update an existing international list of occupational diseases with a view to progress and the existence of new knowledge in medical science. Since, in accordance with our answer to Question 16, the list of occupational diseases should not be annexed to the Recommendation, information on regular reviewing or updating through meetings of experts or other means can be dispensed with here.

Greece. ESEE: Yes.

Hungary. Employers: Yes, because this gives a degree of flexibility to follow the new results of technological development, and new type of injuries.
Workers: Yes.

India. Yes. At present there is no firm mechanism available to review periodically the list of notifiable occupational diseases.

Indonesia. APINDO: No. It is for decision by the tripartite meeting.

Italy. The proposal addresses something already dealt with in our national system.

Jamaica. The Recommendation should state that the reviewed list should be adopted by the national competent authority of member States, where appropriate.

Japan. NIKKEIREN: We recognize the necessity of reviewing and updating the list of occupational diseases, but the procedure should be based on careful examination. Therefore, the phrase "meetings of experts" should be changed to "tripartite meetings of experts", and the phrase "or other means as authorized by the Governing Body of the International Labour Office" should be deleted.

Lebanon. This question would suggest that the list of occupational diseases is not subject to the approval of the International labour Conference and that this updating has no relation to the revision of the Recommendation. In other words, despite the fact that this list will be annexed to the proposed Recommendation at the beginning, it will be independent in the future. We understand that this list is not binding and provides guidance.

Malaysia. Yes, and very important.

Mauritius. This simplified mechanism for the revision and updating of the list is better than the one existing under Convention No. 121, where a two-thirds majority of the Conference is required to amend the existing list.

Namibia. NEF: Yes, provided cognizance is taken of the reply to Question 14.

New Zealand. Yes, provided that the instrument clearly contemplates that Members may make use of the list as their national circumstances determine, as indicated in the answer to Question 17.

Portugal. In Portugal, there is support for the establishment of a technical committee to monitor the review of the list of occupational diseases. The purpose of the committee would be to encourage studies on specific topics in connection with medical information on occupational diseases, the launch of new technologies and the appearance of new diseases.

Singapore. NTUC: Yes.

South Africa. BSA: Yes, provided cognizance is taken of the response to Question 14 above.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: Yes.
USS: Yes.

Ukraine. An updated list of occupational diseases should form a basis for further developing and updating the national list.

United States. USCIB: Yes, if updated at an ILO Conference.

Office commentary

There is, effectively, no disagreement with the provision framed in the question to review and update whatever list of occupational diseases that exists, although there is comment on the procedure to be followed.

There are references to the need for the updating of the list to be considered on a tripartite basis. The membership of meetings of experts satisfies this need.

The question appears as Paragraph 3 in the proposed Recommendation.

Should the Recommendation provide that the national list of occupational diseases should be reviewed and updated with due regard to the most up-to-date list approved by the Governing Body under Question 18 above? **Qu. 19**

Total number of replies: 69.

Affirmative: 64. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 5. Czech Republic, Ecuador, Germany, Japan, New Zealand.

Argentina. On condition that the logical structure of the national list allows for the addition of notes that make special reference to the relationships between working situations and the diseases.

Austria. The updated list should be sent to the member States as a stimulus for updating their own list or compiling one.

Brazil. CNA, CUT, FS, CGT, SDS, CONTAG: Yes.
CNI, CNF, CNT: No, given the answer to the previous question.

Colombia. ANDI: No, given the answer to the previous question.

Czech Republic. CMKOS and KZPS: Yes.

Denmark. Yes, as long as it will not prevent countries from going further than can be agreed at the international level.

Ecuador. No, as a country would find it difficult to integrate legal requirements that conflict with national reality.

Eritrea. Reviewing and updating national lists should take into consideration the different capacity of developing countries.

Ghana. GEA: Yes.

Germany. No, since the answer to Question 18 is also "No".
BDA: Yes.

Greece. The national list will also be reviewed and updated in conformity with European Union recommendations and directives.

Hungary. Employers: Yes, but following European practice.
Workers: Yes.

India. Yes. See response to Question 18.

Indonesia. Yes, with ILO supervision and support.
APINDO: No. It is not necessary but the ILO should be informed of new country lists.

Jamaica. See comment on Question 18.

Japan. No. In accordance with Paragraph 6, subparagraph (3), of Recommendation No. 121, the proposed Recommendation should provide that each Member should "give ... consideration to" the most up-to-date list approved by the Governing Body under Question 18 above.
NIKKEIREN: No. The national list of occupational diseases should be reviewed and updated in accordance with the actual circumstances of each country.

Kuwait. Should be left to national practice.

Lebanon. The member States should determine the timing of such a review.

Namibia. NEF: Yes, provided cognizance is taken of the response to Question 14.

Netherlands. If this international list is not implemented at the national level it seems to be meaningless.

New Zealand. No, the list will be a source of information for Members, but as a Recommendation without a requirement for Members to be examined against it. Reviews of national lists should not be "required" to be conducted in comparison with the ILO's list.

Pakistan. It may not be possible for member States to do so. They may, however, review the text as and when required.

Poland. OPZZ: Refer also to occupational diseases connected with overuse of the voice.

Singapore. NTUC: Yes.

South Africa. BSA: Yes, provided cognizance is taken of the response to Question 14 above.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: This evaluation should be left to the competent national authorities.
USS: Yes.

Turkey. This would ensure harmonization at the international level, and make it possible for developing countries to benefit from the list drawn up in the light of scientific discoveries made in developed countries.

United States. USCIB: No. Because the list of occupational diseases is substantive and directly modifies the scope of the Recommendation to be developed, it should only be done in an ILO Conference.

Office commentary

Several governments and organizations, whilst not dissenting in principle, question whether the review and updating of lists as envisaged by the question will be practicable having regard to the differing stages of national development. The wording of the question requires only that review and updating should have due regard to the latest ILO list and the Office interprets this as allowing wide national discretion. This would meet, also, the concern of the Government of Denmark and, less directly, that of the Government of New Zealand.

In view of this interpretation, and noting the reasons for the negative responses when these are stated, the question appears in the proposed Recommendation as Paragraph 4.

Should the Recommendation provide that each Member should communicate information on the establishment and review of its national list of occupational diseases to the International Labour Office as soon as it becomes available, with a view to facilitating the regular review and updating by the Office of its list of occupational diseases? **Qu. 20**

Total number of replies: 69.

Affirmative: 67. Argentina, Australia, Austria, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Germany, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 2. Czech Republic, Ecuador.

Brazil. CNA, CUT, FS, CGT, SDS, CONTAG: Yes.
CNI, CNF, CNT: No, given the answers to the previous two questions.

Colombia. ANDI: Such a provision does not need to be included in the Recommendation.

Croatia. IOM: The ILO should transmit this information to other member States in written form or, better, through meetings to discuss list changes.

Czech Republic. KZPS and the workers' organizations reply in the affirmative.

Denmark. FTF: The Recommendation should also provide that each Member should furnish annual statistics to the International Labour Office according to needs.

Ecuador. No, there are already Conventions that provide for this to take place.

Eritrea. See comment on Question 19.

France. CGT-FO: Reporting of national experience is essential for the qualitative improvement of the situation of workers who benefit from the experience of the most advanced countries.

Ghana. GEA: Yes.

Japan. Yes, but the Recommendation should provide that each Member should communicate information on the establishment and review of its national list of occupational diseases to the ILO *when each Member is asked to do so* rather than as soon as it becomes available.

Kuwait. No objection, taking into account the conditions in each member State and its material and technological potential in collecting and classifying information.

Malaysia. Yes, but the member countries should be given the freedom not to communicate this information if they so desire.

Singapore. NTUC: Yes.

Sri Lanka. LJEWU: Yes.

Switzerland. UPS: Leave to national discretion.
USS: Yes.

United States. USCIB: Yes.

Office commentary

There are but two negative responses to this question. The Japanese Government is alone in proposing that information should be supplied to the ILO only on request. However, such an arrangement may result in delays in reviewing and updating the list of occupational diseases. The question appears as Paragraph 5 in the proposed Recommendation.

Qu. 21 *Should the Recommendation provide that each Member should furnish annually to the International Labour Office comprehensive statistics on occupational accidents, occupational diseases and, as appropriate, dangerous occurrences and commuting accidents, with a view to facilitating the international exchange and comparison of these statistics?*

Total number of replies: 68.

Affirmative: 61. Argentina, Australia, Bahrain, Barbados, Belarus, Benin, Brazil, Bulgaria, Burkina Faso, Canada, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Finland, Gabon, Hungary, India, Indonesia, Israel, Italy, Japan, Kenya, Republic of Korea, Kuwait, Lebanon, Lithuania, Mauritius, Mexico, Republic of Moldova, Morocco, Namibia, Netherlands, New Zealand, Norway, Pakistan, Panama, Peru, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Spain, Sweden, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, Yugoslavia.

Negative: 3. Ecuador, Germany, Malta.

Other: 4. Austria, Chile, Greece, Malaysia.

Australia. There would need to be flexible guidelines in place taking into account the substantial reporting burden that currently exists in the ILO community.

Austria. Only those Members which keep the relevant statistics should furnish these to the International Labour Office.

Chile. The time limit does not seem appropriate considering the wealth of information involved and the countries' differing levels of development. It would be more advisable to furnish information every two years at least.

China. Yes. It is also recommended that seminars be organized regularly for this purpose so as to publicize relevant information.

Colombia. The ILO must provide technical assistance to countries that do not have a proper statistics-gathering system so that one can be developed and put into operation.
ANDI: Not in favour of inclusion.

Croatia. NIPH: Provision should be made for furnishing basic statistics, while comprehensive statistics could be furnished optionally according to possibilities.

Ecuador. No, there are already Conventions on this subject.

Eritrea. See comment on Question 19.

Ghana. GEA: Yes.

Germany. No, if the International Labour Office has the possibility of obtaining information from existing sources. The database of Eurostat, the Statistical Office of the European Union, is a particularly obvious source in this context, where a start has already been made to bring about harmonization at least at the European level. Since our resources are limited it is not feasible to conduct a separate recording system according to specific ILO ideas and requirements. Due to the diversity of the national systems and the resulting incomparability of data, the validity of the data will at all events be limited. Moreover, there seems to be little point in making the regular communication of information the object of a Recommendation which the member States are only required to observe within the framework of article 19, paragraph 6, of the ILO Constitution.
BDA: Yes, but our reply to Question 5(c) and (d) must be taken into account; a longer period (three or five years) should possibly be chosen.

Greece. Except for dangerous occurrences. We have reservations about the stated period.
ESEE: Yes.

Hungary. Yes, we think that it is important, but we suggest the deletion of the recording of "dangerous occurrences" (see the answer given in 5(c)). No, we do not support comprehensive statistics on traffic accidents.
Employers: Yes, but this obligation should be regulated in detail.
Workers: Yes.

Israel. See comment on Question 22.

Italy. Apart from "dangerous occurrences". See comment on Question 5(c).

Kuwait. No objection, with the exception of commuting accidents. We would have preferred that the ILO prepare special forms to be completed by governments on information needed to facilitate the government dispatch of information, or that the matter be left to conditions in each member State whenever the required information is available.

Malaysia. Members should be given the freedom and liberty whether to submit the statistics to the ILO or otherwise.

Malta. The annual submission of comprehensive statistics on occupational accidents, occupational diseases and dangerous occurrences and commuting accidents to the ILO should be left to the discretion of member States.

Namibia. NEF: Yes, provided that up-to-date statistics are in fact published on a regular basis by the ILO.

New Zealand. Yes, with reservations on commuting accidents referred to in reply to Question 5(e).

Norway. Yes, the Recommendation should provide that each Member should furnish annually to the International Labour Office comprehensive statistics on occupational accidents and occupational diseases with a view to facilitating the international exchange and comparison of these statistics. We do not consider that the Recommendation should provide that each Member should furnish statistics on dangerous occurrences and commuting accidents. We assess there to be too much work involved in keeping statistics on dangerous occurrences. Norway does not have statistics on commuting accidents, because travelling between the home of the employee and the workplace and vice versa is not considered as part of the work. Accidents happening when commuting – before or after working hours and before entering the workplace or after leaving the workplace – are not considered as occupational accidents.

Poland. PKPP: Yes, with the omission of the words following "occupational diseases".

Singapore. NTUC: Yes.

South Africa. BSA: Yes, provided that up-to-date statistics are in fact published on a regular basis by the ILO.

Spain. A provision of this type could be accepted. Moreover, it is considered that the ILO may have access by other means to this information in certain countries, since it publishes the statistics in question. However, it is doubtful that the proposed aim, i.e. that of obtaining comparable statistical data at the international level, can be achieved, since the concepts of occupational accident and disease differ in many countries and, consequently, the data supplied do not permit comparison.

CEOE/CEPYME: Yes.

UGT: Yes.

Sri Lanka. LJEWU: Yes.

Sweden. Only one general account per annum (total figures, for example) for occupational accidents, occupational diseases and commuting accidents, plus a more detailed account at longer intervals. On the subject of "dangerous occurrences", see remarks on Question 5(c) and (d). Both nationally and internationally, statistical comparisons need, wherever possible, to be made between sectors of employment.

Switzerland. UPS: Leave to national discretion.

USS: Yes.

United States. USCIB: No. The annual requirement exceeds the reporting frequency for priority and fundamental ILO Conventions. This after all is a Recommendation. Moreover, for the reasons given in Parts I and II, the categories for reporting are too broad.

Office commentary

The furnishing of annual statistics to the ILO meets with the approval of most of the governments and organizations responding to the question. The reservations as to

dangerous occurrences and commuting accidents expressed in earlier questions are repeated and the Office again draws attention to the qualifying words "as appropriate" which it believes is recognition that some member States do not collect statistics on such types of event.

There is also reference to existing instruments which deal with recording and notification such as Article 11 of the Occupational Safety and Health Convention, 1981 (No. 155), but the Office observes that this does not ask for the furnishing of information to the ILO. An annual return is questioned as being too frequent and there are doubts as to the ability of some developing countries to comply – in this connection there is a suggestion that the ILO should produce standard forms of return, which is noted.

Whilst the ILO has the possibility of obtaining information from existing sources such as Eurostat, as mentioned by the Government of Germany, this is limited and regionalized and does not provide the comprehensive statistics envisaged by the question. Nor would such statistics become available were the furnishing of them to be discretionary.

The Office has accordingly included the question as originally drafted in substantive form in the proposed Recommendation as Paragraph 6.

IV. Special problems

(1) Are there any particularities of national law or practice which, in your view, are liable to create difficulties in the practical application of the international instrument(s) as conceived in this questionnaire? **Qu. 22**

(2) If so, please state the difficulties and indicate your suggestions as to how they might be met.

Total number of replies: 71.

Affirmative: 42. Argentina, Australia, Belarus, Canada, Chile, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Ecuador, Eritrea, Ethiopia, Finland, Greece, Hungary, India, Indonesia, Israel, Italy, Jamaica, Kenya, Republic of Korea, Lebanon, Malaysia, Mauritius, Mexico, Namibia, Netherlands, New Zealand, Norway, Panama, Peru, Slovakia, South Africa, Spain, Suriname, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom.

Negative: 29. Austria, Bahrain, Barbados, Benin, Brazil, Bulgaria, Burkina Faso, China, Cyprus, Denmark, Egypt, Equatorial Guinea, Estonia, Gabon, Germany, Kuwait, Lithuania, Malta, Republic of Moldova, Morocco, Pakistan, Philippines, Poland, Romania, Russian Federation, Singapore, Thailand, Ukraine, Yugoslavia.

Argentina. The logical structure adopted for drawing up the list of occupational diseases would make it difficult to adopt the international instruments in practice. However, given the specific nature of occupational medicine and psychology, the inputs recommended would prove useful. Comparability criteria should be established so that the ILO and member States can evaluate the policies adopted to prevent occupational hazards.

Australia. The feasibility of implementing any international instrument(s) would be influenced by the type of national approach adopted. Currently, responsibility for injury recording rests with the various state/territory and other independent jurisdictions.

Disparities in the definitions of terms outlined in the report may inhibit the application of the international instruments. This problem can exist on a national scale also. There exists a situation in Australia whereby the coordination of the collection of data from eight different states or territories is complex. Obligations for the reporting of injuries can vary dramatically between the different states and territories. Variations in the definition of the basic terms also exist.

Belarus. Some time will be needed to bring national legislation into conformity with the proposed international standards.

Belgium. CNT: It notes that only the private sector is taken into account in the elaboration of statistics on occupational accidents and occupational diseases, to the exclusion of public sector workers, such as teachers or railway staff. It will therefore be for the public authority to ensure that data concerning these categories of workers are incorporated into the statistics. At all events it thinks that the adoption of an international instrument would necessarily entail an adaptation of existing administrative practices and emphasizes here the relevance of the instrument in so far as it would be likely to play an active role in the improvement of these practices.

Canada. (1) In Canada, legislative authority for labour matters, including the setting and enforcement of occupational safety and health standards, falls mainly within provincial and territorial jurisdiction. Legislative authority for compensation and the recording and notification of occupational injuries and occupational diseases is exclusive to the provinces and territories. The sharing of responsibilities between the federal Government, on the one hand, and the provincial and territorial governments, on the other, and the distinct obligations of employers and of compensation and medical authorities hinder the establishment of a national policy on these matters and, consequently, a national list of occupational diseases.

(2) The body of Canadian legislative and regulatory requirements concerning the recording and notification of occupational injuries and diseases is very similar across all authorities involved. Further, the definitions and scope of recording and notification schemes are very much consistent with those of the proposed Protocol, with the exception of commuting accidents, incidents, dangerous occurrences and suspected cases of occupational diseases, which are outside the scope of this legislation. Standardization efforts are being pursued through formal collaborative ventures among all authorities to ensure national consistency in statistical information on occupational injuries and diseases.

Chile. It is important to achieve better coordination among the various authorities with responsibilities for workers' health so as to be able to rely on a single source of consolidated statistics.

China. China has promulgated national legislation on occupational diseases control which includes specific regulations on the reporting and notification of occupational diseases. China has been implementing the recording and notification of occupational diseases for 17 years and publishes statistics on an annual basis.

Colombia. It is suggested that the health sector be brought into the effort in specific and practical ways. This will complement what is being done by the labour sector in recognizing occupational ill health as such. Moreover, bearing in mind the difficulties involved in establishing a statistics compilation/gathering system, the ILO must provide technical assistance so that the proper data-gathering and data-organization systems can be set up on occupational accidents and diseases.

ANDI: No difficulties as long as the instrument takes the form of a Recommendation that refers to the national conditions of each country and does not include international or ILO devised parameters.

Costa Rica. National legislation relating to labour risks has certain peculiarities that are liable to create difficulties in the practical application of the instrument(s) in question.

From a legal point of view, it appears necessary to review and possibly to reform Title IV of the Labour Code: "On the protection of workers in the course of their duties". The same applies to the regulations governing occupational health commissions.

Croatia. IOM: There are some problems in respect of commuting accidents and suspected occupational diseases. The prevention of commuting accidents is the responsibility of society as a whole and the implementation of safety measures at work cannot significantly influence the incidence of these accidents. Suspected occupational diseases should be reported to the work inspectorate, but not recorded until the diagnostic process is complete.

Cuba. If a new information system were to be established or if the statistics in use were to be modified, it would be necessary to introduce changes to the national statistical system.

Czech Republic. The term "commuting accident" covers events not regarded as occupational accidents. This could cause problems in statistical reviewing and in comparisons.

Denmark. There are no requirements in the national law for the employer to notify the authorities of dangerous occurrences, incidents/near accidents or commuting accidents. The Protocol should prioritize the recording and notification to the authorities of occupational accidents and occupational diseases. It could be recommended that near accidents, dangerous occurrences and commuting accidents are recorded by enterprises for their own prevention activities. In Eurostat a great deal of work has been done to harmonize recording and statistics for occupational accidents and occupational diseases. Therefore cooperation with Eurostat is imperative.

Ecuador. A problem might arise when duplicate obligatory procedures are created for governments to provide information as most of the information that it is suggested be obtained under the new Recommendation is already required under previously ratified Conventions.

Eritrea. The inclusion of "commuting accidents", which in national law and practice are left to collective agreements – see comment on Question 5.

Ethiopia. National labour legislation provides that the Ministry of Labour and Social Affairs deals with standards of working conditions, and the Labour Inspection Service prepares lists of occupational diseases and schedules or degrees of disablement and classifies dangerous trades or undertakings.

However, due to lack of experience the standards and regulations, the list of occupational diseases and the degree of disablement are not yet formulated. Technical support from the ILO is needed in this area.

CETU: In spite of the fact that occupational safety and health has been given importance and is stipulated in the labour proclamation, the necessary attention is not given to it. Although there is a department in the Ministry of Labour and Social Affairs that is responsible for inspecting the implementation of the law, no sign of proper inspection is seen at all.

Employers also do not respect the law and provide the necessary protection to workers and even deny them compensation payable for injuries. They do not keep records of the health conditions of workers so as to be able to take precautions in that respect. It would be appropriate for the social partners to discuss the issue during their consultative meetings and propose binding regulations to be included in the labour law, and the proper follow-ups must be made.

Finland. A Protocol may give rise to difficulties, depending on the final form of its content.

France. CGT-FO: Certain concepts such as "dangerous events" and "incidents" will be difficult to grasp. Their possible recording may cause problems in that national legislation in France covers only occupational accidents, the sole concept on which the responsibility of employers is based.

Gabon. Trade Union Congress of Gabon (CSG): Yes, because as Gabon has never ratified the Occupational Safety and Health Convention, 1981 (No. 155), the practical application of the international instrument will only be partial, owing to a lack of legislation. No national commission has been set up for this purpose.

Germany. As long as no additional requirements are laid down which go beyond the existing arrangements in the Federal Republic for the recording and notification of occupational accidents and diseases, and as long as the instrument is designed according to our previous replies, we do not expect any difficulties with implementation.

BDA: Yes. See Question 5(c) and (d), since such "dangerous occurrences" and "incidents" are not to be recorded or notified.

Greece. Difficulties relate to the recording and notification of dangerous occurrences which we suggest should not be incorporated in the instruments. There are also some problems as far as occupational diseases are concerned.

Hungary. (1) Yes.

(2) According to the representative report of the Central Statistical Office, 60 per cent of occupational accidents are not reported by employers.

Employers: No, because we think that the European regulation taken up by Hungary is more severe than the ILO regulation.

Workers: (1) Yes.

(2) At least 25 per cent of occupational accidents (according to the representative report of the Central Statistical Office 60 per cent) are not reported by employers. The difference is even greater as regards the number of occupational diseases and cases of severe exposure.

Honduras. COHEP: The Recommendation should have regard to the realities of developing countries in the short term.

India. In the case of unorganized and small mines it will be difficult to enforce the provisions relating to the recording and notification of occupational accidents and diseases.

The enforcement of legal provisions for occupational health and safety is generally poor due to (i) lack of political will, (ii) lack of adequate manpower, (iii) lack of expertise among the medical officers of the inspectorates for reorganizing occupational hazards, and (iv) inadequate/non-existent laboratory support for the assessment of work environments and the diagnosis of occupational disease.

Indonesia. The implementation of occupational safety and health in Indonesia is not yet fully coordinated by the Department of Manpower and Transmigration. Some other departments supervise and control this in their responsible areas, i.e. the Department of Energy and Mineral Resources and the Department of Health. It is difficult to get regular reports from these institutions.

The insurance institution dealing with compensation for occupational accidents and diseases (Worker Social Security Company) is a state-owned company which is supervised by the Department of Finance. No regular report is made to the Department of Manpower and Transmigration about occupational accidents and diseases reported to the company.

APINDO: Medical doctors should report diseases (including occupational diseases to the Department of Health) using the International Classification of Diseases (ICD). Unfortunately there is no specific requirement to report occupational diseases separately on a special form. In the meantime the Department of Manpower has special arrangements using special forms to report occupational diseases, but the system is still too complicated for occupational health practitioners to comply with it.

It is not very easy to differentiate between occupational and work-related diseases. For this reason, we propose simplifying it for the benefit of this particular programme.

Israel. The report describes difficulties in gathering information and furnishing statistical data due to under-reporting of accidents in general and occupational diseases in particular. We do have such problems in Israel, and are trying to solve them in different ways, but success is limited. The problem exists in particular among small enterprises, which in general try to avoid any involvement from the authorities and therefore neglect their duty to notify work accidents.

Italy. See comments on Question 5(a) and (d) on "dangerous occurrence" and "incident".

Jamaica. There are currently two agencies governed by separate legislation that regulate or administer occupational safety in Jamaica. The Industrial Safety Department of the Ministry of Labour and Social Security supervises all the industries on the island except the mineral industry which is administered by the Ministry of Mining and Energy. This obviously produces two sets of national statistics on accidents and diseases.

In order to provide a comprehensive report it will be necessary to combine these statistics before submission to the ILO on an annual basis.

Kenya. (1) Problems may arise in the implementation of the instrument(s) among the developing countries. This is due to their inability to confirm the existence of occupational diseases due to lack of expertise.

(2) Basic specialist training in occupational health through ILO assistance to collaboration centres.

Republic of Korea. Currently, the employer has no responsibility to report dangerous occurrences and incidents, or commuting-related incidents under domestic laws. Therefore, there are no related national statistics.

The recording and reporting of dangerous occurrences and incidents, and of commuting-related incidents, etc., is a necessary measure to reduce industrial accidents by removing hazardous factors. However, in order to have more countries ratify the Protocol, we need to limit the scope of reporting occurrences to the most necessary level for international comparison. Therefore, we recommend removing dangerous occurrences and incidents, and commuting-related incidents from the Protocol list.

KEF: According to the Industrial Accident Compensation Insurance Act, medical care benefits are provided to those who have accidents requiring more than four days of treatment. The provision is too generous, compared to those of other countries, and there is a risk of including accidents which present problems in being clearly defined as industrial accidents in the statistics. Thus national legislation needs to be strengthened to the level of other countries so that comparison is possible.

KCTU: Commuting-related incidents are not part of the Korean Industrial Accident standards. Therefore, workers' protection is not sufficient. During the financial crisis many safety and health standards have been lowered. It is necessary to change the labour-related laws to acknowledge commuting accidents as industrial accidents and to add a compulsory clause requiring tripartite meetings over workers' health and safety.

Lebanon. Occupational accident and occupational disease insurance is one of the sections of the Lebanese Social Security Act which has not yet been given effect. Therefore, no national list of occupational diseases has been established. In reality, there are no official statistics on work accidents, for the Ministry of Labour is not informed of these accidents, except through complaints lodged with the Ministry. The occupational accident and occupational disease insurance service, which is a branch of the national social security fund, is not in operation. It goes without saying that the occupational diseases list established by the ILO will be taken into consideration when establishing the national list of occupational diseases.

It is in this perspective that the conditions and possibilities of every individual State should be taken into account. It might be difficult to furnish the national labour office annually with comprehensive statistics on occupational accidents and diseases for there may be no precise

statistics on them owing to the absence of legislative provisions governing them, or because such provisions are not put into practice. The International Labour Office has the responsibility to provide technical support on request, to help establish, as appropriate, related legislation and training for staff on collecting, classifying and analysing information. Furthermore, it might not be practicable to update the national occupational diseases list pending the decision of the Governing Body on a new updated list. Such a procedure is time consuming.

Malaysia. Yes, with reference to Question 10. Annually published statistics might not reflect the actual situation due to under-reporting and incomplete reports, which will lead to insufficient analysis. Currently industrial accidents or diseases have to be reported to a number of authorities such as police, the social security organization (SOCSO) and the occupational safety and health department (DOSH) for different purposes. Reporting to one centralized authority could solve the problem.

Mauritius. At present, occupational accidents are reported to three (named) institutions and occupational diseases to another. There is a need to revise the whole system of notification with a view to streamlining it and eliminating duplication. It is also important to reconsider the existing system of publication of statistics of both occupational accidents and diseases.

Mexico. The Constitution has defined the respective areas of competence, by establishing a three-layer "pyramid": the federal government level; the state government level; and the municipal authority level. Each level has been given relevant material and its own area of jurisdiction.

Our proposal is that mechanisms should be created to promote cooperation between the local federal authorities with a view to facilitating exchanges of information on hazards at work. This would enable us to provide reliable and objective information in this area.

As regards the problem of the exclusion of informal sector enterprises and workers, we propose that labour ministers and departments should carry out research on the scale of the problem. They should then develop mechanisms to allow workers in the informal sector to report any cases of occupational diseases or accidents, since not all such cases are now reported.

Namibia. Yes, the treatment of non-scheduled diseases that are not listed in Schedule I, but that pose threats to specific occupations. Guidelines should be formulated by the ILO to assist member States with the procedures to be followed as regards evaluation and the compensation of victims of these diseases.

NEF: Yes, in the sense that some countries, particularly in the developing world, might not have the resources and skills to comply with the requirements to gather and process the statistics. For this reason NEF would urge that every possible effort be made to couch the new instrument in terms that would in fact be achievable in as many countries as possible. In this regard consideration will have to be given to the infrastructure, skills staffing and funding available in the different countries. It can be foreseen that some training might be required, particularly for small businesses and in developing countries.

Netherlands. How about the lack of special compensation regulation for occupational diseases and accidents at work within the social security system in the Netherlands? It is beyond our scope to judge the difficulties this can give rise to. One should take care of concordance with the review of the European list of occupational diseases.

New Zealand. The previous responses reflect the difficulties that apply because of New Zealand's national practice. For instance, employers are not required to submit information on "near misses" to national authorities except where "serious harm" occurs.

Norway. Norwegian law does not cover commuting accidents in general. Transportation accidents are notified only when employees are travelling by car or some other means of transport as required by the nature of their work. We suggest that commuting accidents should also be defined in this way in the draft Protocol and Recommendation.

I.O. Difficulties could arise in connection with an international instrument of this kind. One potential difficulty is that the list provides a basis for compensation for injury to health at the same time as it is an instrument in the preventative effort. Consideration for the protection of workers' health and the precautionary principle may make it difficult to get new occupational diseases added to the list at an early stage. Reluctance in regard to compensation could also impede the addition of new occupational diseases to the list.

Spain. In the responses provided above, we have indicated a number of particularities of national law or practice: different lists in certain groups of occupational diseases, different concepts of occupational accidents and occupational diseases, and so on. The amendment of these aspects in Spanish legislation, by adapting them to those proposed in this document by the ILO, should be decided by the competent bodies and, in this connection, it is thought that difficulties may be anticipated, since our regulations, which are in line with European Union regulations, have already been consolidated and are quite developed.

UGT: Yes. Self-employed workers are not currently registered under our legislation.

Sri Lanka. LJEWU: The absence of reliable information about the incidence of occupational accidents and diseases has become a major obstacle. The ILO now hopes to take this proposed remedial measure. We support this progressive measure to meet this challenge at the international level. We have reservations as to its application at the national level in Sri Lanka. We have a long way to go. We are not yet ready to give the responsibility of reporting and recording occupational accidents and diseases to the employers concerned. We are still taking steps to meet this challenge and other requirements within our own state organization.

Suriname. Our Occupational Safety and Health Act may not be in conformity with the comprehensive list of occupational diseases appended to the ILO code of practice on the recording and notification of occupational accidents and diseases, Schedule I to the Employment Injury Benefits Convention, 1964 (No. 121), the Occupational Safety and Health Convention, 1981 (No. 155), and the Employment Injury Benefits Convention, 1964 (No. 121).

Sweden. Definitions need to be carefully reviewed and compared to achieve statistical comparability between different systems and countries. This problem is constantly being underrated. The terms used in the Recommendation should be clearly and unambiguously defined. Men and women should be distinguishable in the occupational injury statistics.

Syrian Arab Republic. Note should be taken of the fact that Part III of the questionnaire devoted to the content of the proposed Recommendation did not include the standards put forward in the questionnaire on the proposed Protocol. These standards are considered of major importance as regards the organization, recording and analysis of occupational accidents and diseases, particularly subparagraphs 5(c) and (d), which are considered important in the area of protection against occupational accidents and diseases, in addition to subparagraphs 6(a) and (b) covering occupational accidents, occupational diseases, dangerous occurrences, incidents and suspected cases of occupational diseases, regardless of whether they have caused injuries or not.

Turkey. Our legislation has no provisions on the points mentioned below which the instruments in question address concerning the recording and notification of occupational diseases and occupational accidents:

- the recording of occupational accidents, occupational diseases, dangerous occurrences, incidents, commuting accidents, and illnesses which are suspected of being occupational in origin;
- the keeping of these records;
- the use of these records in the elaboration of preventive measures;
- the communication of relevant information on the recording system to workers and their representatives;

– the minimum requirements for information to be recorded;

– employers' responsibilities.

The social insurance institution (SSK) is the only public agency which collects and processes statistical information on occupational illness and occupational accidents. Comparison with the national statistics of other countries, notably members of the European Union, creates difficulties because of the different criteria used for the collection, processing and evaluation of the data.

To satisfy the requirements of these two instruments relating to Convention No. 121 and Convention No. 155 which this country has not yet ratified, it would be necessary to revise the abovementioned legislation by amending the existing provisions and adding new provisions on the points which are not considered.

United Arab Emirates. The problem does not lie in the particularities of laws, which are liable to create difficulties in practical application, but in the need to reach agreements between the parties concerned within member States on notification procedures.

United Kingdom. It would not be appropriate to include "commuting accidents" within the scope of a Recommendation – not all countries collect such data. For example, we have no plans to extend our legislation to cover such incidents.

United States. USCIB: Yes. The scope of the proposed instrument, which encompasses "incidents", "dangerous occurrences" and "commuting accidents", is currently not accounted for in the United States, and the expected reliability of the information provided would be quite low. The USCIB also believes that there would be problems with the definition of occupational disease from a United States standpoint.

Office commentary

Member States such as Australia, Canada, Mauritius and Mexico point to the difficulties of establishing national policies and, consequently, a national list of occupational diseases, and so implementing international instruments when the legislative authority for the subject matter of the proposed instruments rests with States, provinces or territories rather than the national or federal government, or is shared between them. A similar point is touched on by those countries in which more than one competent authority or agency is concerned with workers' safety and health or compensation, as referred to by the Governments of Chile and Jamaica.

As in the responses to specific questions, several governments and organizations draw attention to variations in national law and practice relating to dangerous occurrences, incidents and commuting accidents so that only statistics on occupational accidents and occupational diseases are likely to be comparable on an international basis. There is no indication of an intention generally to review such law and practice, rather the contrary. The Office has sought to acknowledge these variations and the implications for the proposed instruments in the ways discussed under individual questions.

The lack of resources and expertise to implement and enforce existing occupational safety and health instruments in some developing countries is referred to both by governments and organizations and this will affect the timescale for the implementation of any instruments which are adopted. It prompts a repeated request for ILO assistance, both generally in terms of occupational safety and health training and specifically in terms of the proposed instruments. There is reference to the related problem of the non-reporting, or under-reporting of accidents and diseases, although this is

by no means a problem confined to the developing countries as the comments of the Government of the United Kingdom make clear.

The Government of Indonesia points out the difficulties in fully coordinating the various authorities and institutions even to produce regular reports. There is a need for improvements in such inter-agency collaboration in many other countries.

The Office has found these comments to be of considerable interest and assistance in developing future policies in this field.

Are there, in your view, any other pertinent problems not covered by this questionnaire which ought to be taken into consideration in the drafting of the instrument(s)? If so, please specify. **Qu. 23**

Total number of replies: 60.

Affirmative: 25. Australia, Brazil, Chile, China, Colombia, Croatia, Eritrea, Finland, Gabon, Germany, Hungary, India, Indonesia, Italy, Kuwait, Malaysia, Mexico, Netherlands, Norway, Panama, Peru, Slovakia, South Africa, Turkey, Yugoslavia.

Negative: 35. Argentina, Austria, Bahrain, Barbados, Belarus, Benin, Bulgaria, Burkina Faso, Canada, Costa Rica, Cuba, Cyprus, Czech Republic, Egypt, Equatorial Guinea, Estonia, Greece, Lithuania, Malta, Mauritius, Republic of Moldova, Morocco, Namibia, New Zealand, Pakistan, Philippines, Poland, Romania, Russian Federation, Singapore, Spain, Suriname, Thailand, Ukraine, United Arab Emirates.

Australia. Yes. The instruments should address the need for coordination of material when separate occupational safety and health legislation covers a specific industry sector, e.g. mining, seafaring.

Brazil. The ILO should encourage the definition of situations and events (accidents, diseases, incidents) that would merit more detailed analysis, and should encourage analysis that concentrates also on causes and which would promote a more efficient prevention policy.

Chile. There are two fundamental aspects here that need to be addressed.

(1) In the matter of the recording and notification of occupational accidents and diseases, consideration has to be given to the confidentiality of workers' personal data. It must not be forgotten that behind every figure there is an injured human being, someone ill or dead, and a worried or grieving family, and that these people deserve to be treated with respect.

(2) Generally speaking, the data surveyed in countries' recording and notification systems deals with workers in the formal sectors of the economy. It is very rare for any information to come to light about accidents in the informal sector. That last remark is very relevant to developing countries, where there is a high percentage of workers in the parallel or alternative economy.

China. A proper system is required for the recording of occupational diseases to guarantee the correctness of the data. The system should consist of two parts:

(i) a network of personnel to reduce the number of unreported cases. To achieve this there is a need to train the persons responsible for recording and notification;

(ii) a computer network. There is a need for the application of computer technology so that data is dealt with in a scientific and efficient way.

Both parts of the network system require economic input and support from the Government at various levels as appropriate.

Colombia. As a result of reforms in social security structures, new actors have emerged as intermediaries or administrators of resources. These actors must also be seriously committed so as to ensure tight control of occupational illnesses and injuries, the avoidance, as far as possible, of any loss of information and more comprehensive commitments entered into by enterprises and governments.

Croatia. IOM: How does the ILO *Encyclopaedia of Occupational Health and Safety* classify work-related diseases? Such diseases are more frequent than occupational diseases and to a great degree cause temporary and permanent disability for work. Although work-related diseases can be influenced by a number of measures unrelated to work, correcting working conditions can significantly affect the incidence of such health damage.

NIPH: The harmonization of differing definitions and practice in particular countries, especially in the case of occupational diseases, and a definition of what work-related injury is precisely and when such an accident is fatal.

Czech Republic. KZPS: The questionnaire does not distinguish between the notification of an occupational accident as a source of basic information and the subsequent investigation to determine compensation. The notification of an occupational accident should briefly and clearly state why the injury happened in order to adopt preventive measures. The degree of culpability should be decided by the investigation to determine compensation.

It is not clear what "need to strengthen recording and notification procedures" means.

Eritrea. Any instrument adopted should take into consideration the capacity of the underdeveloped and developing countries to implement the instrument.

Finland. National, EU and ILO provisions, Conventions and Recommendations should be coordinated in order to avoid overlaps.

France. CGT-FO: It might be worth emphasizing the possibility for victims of occupational diseases to benefit from a system of recognition of illnesses which are not yet listed, at both national and international level.

Gabon. Apart from the publication of national statistics by the competent authority, the Protocol should provide for the national compensation system to publish the direct cost of occupational accidents and diseases on a yearly basis. In this way an economic evaluation of the cost of compensation for vocational risks can be made. This will also allow the ILO to make a global evaluation of the indirect costs of occupational accidents and diseases worldwide and to make country-by-country comparisons.

Germany. The subject of the protection of social data is important but has not been broached.

DGB: There are still problems in Germany with the idea that occupational diseases are caused by one single factor, since this model is not in keeping with realities in undertakings and circumstances of exposure.

The effects of combination and synergism which arise from a variety of stress factors continue to present a special problem. We therefore consider that the proper assessment of working conditions, which is already included in national legislation in all European States, is an essential component for precautions aiming to prevent work-related injury to health.

Hungary. We suggest cases of severe exposure should be reported. In Hungary the examination of cases of severe exposure dates from the middle of the 1980s; recording and notification have been obligatory since 1996. There are approximately 20 groups of materials whose biological exposure limits are known. When a quantity exceeding the limit enters the body, this

is traceable from the blood or urine and constitutes severe exposure. In such cases there is no occupational disease present, but there is the possibility of one occurring. If during the examination following the recording of the severe exposure provisions are made for the employer to rectify the conditions that led to it (technical and organizational provisions, protective garments) then diseases should be prevented. The biological exposure limit provides an effective and up-to-date possibility of preventing the occupational diseases concerned. This is proven by experience in Hungary where the number of cases of poisoning by metal, phosphorus ester, benzene, toluene and xylene, has considerably decreased.

India. See comments on Question 22.

Indonesia. Lack of knowledge and skill of company doctors to diagnose occupational diseases. The ILO should provide some training and equipment to improve the ability of company doctors to diagnose occupational diseases, and establish an information system on occupational diseases.

APINDO: Besides notification, there is another problem we face – how to quantify the percentage of handicaps associated with various post injury and disease sequelae. The methodology in different countries varies to a greater or lesser degree and this could create problems in the coming globalization era.

Italy. Our legislation introduced the concept of "biological damage", i.e. "injury to the mental and physical integrity of the person that requires legal/medical assessment". This means that, as distinct from the situation in the past where, for insurance purposes, all that mattered was loss of earnings, today occupational disability is compensated for if the impairment affects any aspect of a person's life, not just his or her ability to work.

Given the importance of this issue and this new approach to it, it would seem appropriate for the international community to take a more detailed look at it through the ILO.

Kuwait. When formulating instruments the following should be observed:

- the instruments should be sufficiently flexible, having regard to the conditions and potential of different member States; instruments should interact easily with modern developments in the area of occupational diseases and possible new emerging diseases;
- the need to have scientific evidence to know whether the disease is to be considered occupational or not, as this would result in rights to compensation or registration and notification;
- the ILO technical cooperation projects should emphasize the training of staff responsible for the identification of diseases and for recording and notification procedures, particularly in developing countries.

Malaysia. Some OSH problems could differ from one country to another.

Mexico. More support is needed for small and medium-sized enterprises through the provision of handbooks, forms and computer programmes for recording statistics, as well as courses run by the labour ministries, social security institutions and occupational health services.

National, regional and international meetings on the recording of occupational accidents and diseases should also be promoted to facilitate exchanges of experience on methods of recording, processing and analysing information. Meetings specifically to discuss appropriate computer programmes should also be organized.

Netherlands. Constructing a list of occupational diseases is a first important step, but consensus about criteria and diagnostic procedures is a necessary second one in order to carry out proper comparisons. Therefore we would like to add a recommendation to develop specific criteria concerning the items on the list of occupational diseases, keeping in mind the development and impact of the ILO classification system for silicosis.

Norway. Pursuant to Norwegian law any medical practitioner who through his work learns of an employee who is suffering from an occupational disease of the same status as an occupational injury pursuant to the provisions of the National Insurance Act, or another disorder (disease and/or symptom) which the medical practitioner believes is due to the conditions of work of the employee, shall report this in writing to the Labour Inspection Authority. This reporting obligation should be taken into consideration in the drafting of the instrument(s).

I.O: Where problems not covered by the questionnaire are concerned, we would point to difficulties in deciding what is required in the way of scientific material to prove that a disease or health impairment constitutes an occupational disease. Finding experts and procedures capable of ensuring balanced decisions that the authorities and both parties deem to be correct, and that do not result in the belated listing of new occupational diseases, may be a problem. Finally, we would point to the difficulty of distinguishing between scientific documentation and discretionary assessments. In that connection a closer look must be taken at the extent to which the processes for approving new diseases are transparent and enable the basis for decisions, including the scientific basis, to be assessed by others. The advisability of employing an expert from each party and from the authority in question to undertake such assessments, rather than a single expert, could also be looked into. In that connection the importance of transparent processes needs to be emphasized.

Pakistan. No. The questionnaire is quite comprehensive covering all potential accidents and occupational diseases. However, we suggest that while drafting the instruments, care should be taken in considering the financial status of and the available infrastructure in the member countries. Certain standards might be easily implemented in developed countries but the same would require huge resources in underdeveloped or developing countries due to a lack of parallel support mechanisms. Emphasis should be on the practicability of the scheme so that it is acceptable to the majority of the member countries.

Peru. There is no single format for the notification of occupational accidents and diseases. The public agency responsible for channelling such information is not specified, nor whether this agency is also responsible for informing those organizations interested after the information has been processed. There are also no regulations on the occupational accidents that should be notified, with the exception of fatal occupational accidents, and after how many days of absence from work it is considered that the accident should be reported.

Panama. There is currently no legislation requiring that occupational accidents and diseases be recorded and notified; partial recording and notification exist but only indirectly through the Social Security Fund according to compensation paid out; most occupational accidents and diseases are not recorded or notified.

Poland. PKPP: Yes, there are a variety of interpretations of the concepts of occupational accident and occupational disease and these should be defined in national laws.

OPZZ: See answer to Question 19.

Slovakia. (i) National legislation is not in harmony with the proposals contained in Questions 5(c) and (e), 6 and 7.

(ii) Establish uniform criteria for finding, recording, notifying and providing compensation for occupational diseases. The related procedures should be agreed to by all countries as soon as possible.

South Africa. The integration of national compensation and occupational safety and health departments.

BSA: (1) Yes in the sense that some countries, particularly in the developing world, might not have the resources and skills to comply with the requirements to gather and process the statistics. For this reason BSA would urge that every possible effort be made to couch the new instrument(s) in terms that would in fact be achievable in as many countries as possible. In this

regard consideration will have to be given to the infrastructure, skills, staffing and funding available in the different countries.

(2) It can be foreseen that some training might be required, particularly for small businesses and in developing countries.

Mining companies operating globally finalized an international initiative to harmonize safety reporting at the Minesafe International Conference in Perth in September 2000. National and regional mining associations have promoted the international agreement, and South Africa amended its mine accident reporting regulations to conform to the agreement in January 2001. Employers in the mining industry would not be supportive of an initiative that will be in conflict with these recently adopted and implemented international agreements. Mining companies are currently working on the harmonization of occupational disease reporting.

Switzerland. USS: With regard to the open questions under Part IV, we consider that the drafting of the document must also take account of health protection issues in connection with health problems that result from unsatisfactory working conditions. These include long or untypical working hours, night work and shift work, ergonomically unsatisfactory jobs, etc. They can lead to occupational diseases which can be grouped under the heading of work-associated diseases/illnesses. Work-associated occupational diseases currently receive insufficient consideration in both statistics and prevention. They do not appear, or only appear indirectly, in the list of occupational diseases in Appendix IV to the ILO report.

Turkey. In drafting the instrument(s) consideration should be given to other related European and international instruments.

United States. USCIB: Because the science of ergonomic injuries is so imprecise, such injuries should not be included within the scope of the instrument.

Yugoslavia. It is necessary to regulate the role of trade unions with regard to protection at work; this field should be especially regulated for countries in a state of war or in immediate danger of war.

Office commentary

There is, inevitably, some overlap in the topics covered in the responses to the previous question in Part IV and to the specific questions in Parts II and III. However, a number of important issues are raised for the future consideration of the Office and for a future meeting of experts on the list of occupational diseases, for example those raised by the Governments of Italy, the Netherlands and Norway and the workers' organization of Switzerland.

Several responses refer to the need to encourage meaningful analyses that will assist in the identification of the causes of occupational accidents and diseases and promote effective prevention policies.

There is again mention of the need for training and for forms of international cooperation, as summarized by the Government of Mexico. The Office will have regard to this in considering its future programmes.

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BUREAU INTERNATIONAL DU TRAVAIL
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